Submission of the

New Zealand Prostitutes Collective

to the

Local Government and Environment Select Committee

on the

Manukau City Council (Regulation of Prostitution in Specified Places) Bill
Introduction.

The New Zealand Prostitutes Collective (NZPC) is a national organisation established by sex workers and supporters in 1987.

NZPC has operated a community education programme, including community drop in centres, in six cities throughout New Zealand since 1988. NZPC currently has contracts with the Ministry of Health, which require us to provide a community education programme focusing on the prevention of HIV/AIDS and other STIs (sexually transmissible infections) to people who engage in commercial sex at a variety of brothels, including massage parlours, escort agencies, private homes, and others sites, (such as the street), throughout New Zealand. NZPC is also required to provide advice to government and other agencies on issues affecting the sex industry and the well being of sex workers.

NZPC aims to further the well being of workers in the sex industry and to generate an exchange of information among them for the good health of sex industry workers and their clients and the prevention of HIV/AIDS and other STIs. In this context, NZPC seeks an environment that supports sex workers that enables them to make healthy choices, and to the effective exchange of information about HIV/AIDS and other STIs.

NZPC therefore has an interest in any controls that impact on the sex industry. These controls can enhance, or provide a major impediment to, the occupational health and safety of workers, and affect the social links that facilitate communication and education among sex workers.

Aims of the Prostitution Reform Act 2003.

The Prostitution Reform Act (PRA) was passed in 2003, with the following purpose:

3 Purpose

The purpose of this Act is to decriminalise prostitution (while not endorsing or morally sanctioning prostitution or its use) and 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 conductive to public health:

prohibits the use in prostitution of persons under 18 years of age:

implements certain other related reforms.

The Prostitution Law Review Committee (PLRC), formed through the PRA, examined these aims and “recognised that the legislation was a shift from a moralist approach to prostitution to a health and human rights approach.” As such, it sought to ensure that their report “should be substantiated through evidence-based research” (PLRC, 2008: 3). They commissioned the Christchurch School of Medicine (CSOM) and the Crime and Justice Research Centre (CJRC) from Victoria University of Wellington to complete this evidence based research.

Street based sex workers – a description.

There are an estimated 400 street based sex workers throughout New Zealand. Approximately 230 of these sex workers are spread across a number of sites in Auckland, including Manukau City and central Auckland. Approximately 45 work in Wellington, and a little over 100 work in Christchurch. Research by the Christchurch School of Medicine, Otago University and the Prostitution Law Review Committee, indicates this number has not increased since the PRA was enacted (PLRC, 2008: 40).

It is the experience of NZPC that the number of sex workers is relatively stable, and in some parts of the country, such as Wellington, is decreasing as sex workers have the means to shift indoors and to work from home or elsewhere. NZPC comprised a list of street workers by talking to all the street workers who have been out at any time. Not all street workers are out on any given night, but may only be on the streets once or twice a month. It is our strong belief that sometimes the numbers quoted by commentators and other groups are exaggerated and inflated, creating the impression that our streets are teeming with sex workers.

K’Rd Area

Sex workers who work around the Karangahape Road/inner city area are working on their own, or in clusters of two or three, on sites which have long been recognised by clients and sex workers. These
sex workers are, for the most part, assimilated into these neighbourhoods and people expect there to be sex workers in the Karangahape Road zone. The zone is mixed commercial, and over time, parts of this area have been gentrified, with some inner city apartments, art galleries, superettes, and the like. Bars, pubs and nightclubs have remained an active part of the Karangahape Rd area. There is also a needle exchange programme operating from a community centre in this area, and NZPC has its community base there as well. Mostly, sex workers work at night usually after 10pm but there are small numbers who work by day, seeking clients

NZPC provides outreach services to street based sex workers, visiting them on a weekly basis, and has done so for 21 years, since our project began in Auckland.

Research indicates that street based sex workers are predominantly female, although there are significant numbers of transgender people, and are predominantly Maori. Over 35% of street based sex workers are supporting children or family members, while 45% are over 30 and over 17% have a tertiary education (Abel, Fitzgerald & Brunton, 2007: 61, 77).

Street workers may have family members or friends at home, and are unable to work from home. Cost may make it impossible for them to operate from other premises.

**Manukau City Council (Regulation of Prostitution in Specified Places) Bill.**

NZPC is opposed to this Bill. This Bill is directly contradictory to the aims of the PRA, seeking to recriminalise street based sex work in “specified areas” throughout the Manukau City Council jurisdiction. This Bill will apply throughout the new Auckland “super city”, from Pukekohe in the south to Wellsford in the north.

NZPC has a variety of concerns in relation to this Bill. In summary they are:

1. The Bill breaches the aims of the Prostitution Reform Act 2003, and recriminalises street based sex work.
2. Street based sex workers who work in “specified areas” (i.e., areas they are not allowed to work in) will be fined up to $2000. Prior to 2003, the fine was $200 for soliciting in a public place. Any penalty is unacceptable, and contrary to the aims of the Prostitution Reform Act 2003.

3. Sex workers will be caught in a cycle of working to pay off fines, and may possibly be imprisoned for unpaid fines.

4. “Specified places” are public places the council has decided they do not want “activities or behaviour” they believe “are likely to cause a nuisance or serious offence to ordinary members of the public using the area; or are incompatible with the existing character or use of that area”. This could mean that street based sex workers may not be allowed to work in any place other than inappropriate industrial areas, which are unsafe leaving them vulnerable to violence.

5. The Bill also criminalises the clients of street based sex work. This is concerning as street based sex workers will not have sufficient time to make a choice over whether to accept a client or not. Furthermore, they will take these clients to areas which are less safe. This leaves them more vulnerable to violence.

6. Police may again use the presence of condoms and other safer sex materials, including health promotion information from NZPC, to gain convictions if this Bill is passed, and any bylaw passed under this Bill. It is vitally important that street based sex workers be encouraged to carry condoms and acknowledge their role as sex workers and not have health, as well as safety, compromised.

7. Some street based sex workers are present on the streets because Manukau City Council made it impossible for them to work indoors through their 2004 bylaw. Manukau City Council therefore made any perceived problem worse.

8. Police officers can stop any vehicle a suspected street based sex worker is in or on, which would cause unnecessary harm.

9. The Bill is close to the Contagious Diseases Act 1869 in that any person suspected of street based sex work can be arrested without warrant by the Police.

10. The Bill as a whole attacks the most vulnerable in society, and would affect Maori and Pacific Island peoples more than any other group who may be suspected of being either clients or sex workers in South Auckland. The demographics will change as the law is applied in other parts of Auckland.

11. There are several bars and clubs in the area, and they are not associated in the same way with the litter and other things such as human waste which is attributed to sex workers. We
acknowledge that there are issues which contribute to litter and noise but feel these should be addressed with existing legislation. NZPC feels that street based sex workers and their clients are scapegoated.

12. Manukau City Council also closed the public toilets overnight, again making problems worse as people no longer had anyplace to go to relieve themselves, has not increased the number of rubbish bins and has not installed ‘sharps’ disposal units in the public toilets and, local pubs and clubs.

13. The Bill is in breach of the New Zealand Bill of Rights Act, breaching freedom of speech, freedom of peaceful assembly, freedom of association and freedom of movement. There is no “justifiable limitation” to support this Bill.

14. The Bill as written is similar to the Anti-Social Behaviour Orders (ASBOs) in the UK, which have been used against street workers, young people, support groups providing help to homeless and elderly, buskers, etc.

15. ASBOs have seen people sent to jail when the original offence carried no jail term. The same may happen here if fines are not paid.

16. There are already sufficient laws to combat the issues seen by Manukau City Council (littering, public urination, public defecation, noise, etc.). These are contained in the Litter Act 1976, Summary Offences Act 1981, and the Crimes Act 1961.

17. Manukau City Council tried this in 2005 and it was rejected by Parliament. At that time Parliament noted:

it created offences that criminalise behaviour that exists throughout New Zealand, and that allowing a local Act to amend a public statute in this way would set a significant and undesirable precedent. The Bill was contrary to the aims of the Prostitution Reform Act 2003 and the Optional Protocol to the United Nations, Convention on the Right of the Child on the sale of children, child prostitution, and child pornography, to which New Zealand is a signatory, as the offences would apply to persons under 18. By criminalising street prostitution, the bill would make it harder for both youth and adults to leave the sex industry. Provisions in the Resource Management Act 1991 may enable the promoter to achieve more effectively its stated intent of controlling this activity.

18. These conditions also apply to this Bill, and the Committee made recommendations for Manukau City Council to help address the perceived problems. Manukau City Council has done none of the actions recommended by that Committee.
19. The Ministry of Justice made recommendations in 2009 on how to address the perceived problems, and while NZPC along with other non-governmental organisations such as ADIO and Streetreach followed these recommendations, the Manukau City Council did not. These recommendations are attached as an appendix.

Finally, NZPC would like to finish with the words of a street based sex worker:

This is my life. Please don’t make it any harder on me. I’m only trying to get by.

Catherine Healy
National Co-ordinator
Appendix

Recommendations by the Ministry of Justice on Street-Based Prostitution in Manukau City:

**Measures to address community tensions**
- enhance relationships between key players (those representing the community and sex workers as well as local businesses and support agencies) as part of an overall strategy to address issues – Counties Manukau Police and Manukau City Council to continue their lead roles
- mediation should be considered to establish relationships and then engagement in the development and delivery of a comprehensive strategy should be utilised to develop and maintain cooperation and collaboration
- NZPC/Streetreach should work with street-based sex workers to limit their working hours to outside daylight and/or business hours, and to refrain from working on residential streets

**Measures to address traffic problems**
- formal assessment of traffic design with specific attention to preventing vehicles using short cuts through interconnecting car parks using either permanent barriers, chains or lockable gates
- traffic management measures to direct non-resident vehicles away from Sutton Crescent

**Measures to address noise and anti-social behaviour**
- increased community policing presence in the area at key times (foot patrols). This will also assist in reducing community tension
- enforcement of current liquor bans and extension to car parks and enforcement of antisocial behaviour legislation
- negotiation with sex workers (via advocate organisations) to encourage workers to work with consideration for local residents and businesses
- reduce opening hours for relevant pubs, clubs and liquor outlets in Manukau and more effectively manage the behaviour of patrons after leaving licensed premises
- Police directed patrols by Community Patrols New Zealand to operate after dark to support police
**Measures to address litter (in particular offensive and dangerous litter)**

- installation of additional rubbish bins
- encourage sex workers and clients (via advocate organisations) to dispose of condoms and other litter in an appropriate manner
- installation of ‘sharps’ disposal units in the public toilets and, local pubs and clubs
- longer opening hours for the South Auckland needle exchange
- take up offer by ADIO13 to institute street patrols to collect discarded syringes (currently operating in central city)
- 24 hour opening of the public toilets
- liaison with businesses to improve cleaning of private car parking facilities after hours closure of privately owned car parks

**Measures to improve the environment**

- MCC to consider resourcing the implementation of the CPTED Project Plan for the Northcrest car park and the Hunters Corner Town Centre Development Plan
- MCC to undertake a CPTED review of Hunters Corner with a view to improving safety for the community and street-based sex workers

**Specific actions for Sutton Crescent**

- NZPC/Streetreach should continue to work with street-based sex workers to encourage them to stop working on Sutton Crescent and move to less residential local streets where their safety is enhanced and their impact on residents reduced
- traffic management measures to restrict access and to make Sutton Crescent less attractive as a short-cut for general road users
- temporary after-hours road closure of Sutton Crescent to disrupt circulating pattern
- installation of additional rubbish bins
- after hours closure of privately owned car parks
- liaison with businesses to arrange for cleaning of private car parking facilities