



Brothels & Sex Shops

Development Control Plan

9.3/11

Edition 3

S u t h e r l a n d S h i r e C o u n c i l



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1. Where does the Plan Apply?

This plan applies to all land zoned 3(a) General Business, 4(a) General Industrial and 9(a) Mixed Residential/Business under Sutherland Shire Local Environmental Plan 2000 (SSLEP2000) as well as land to which Sutherland Shire Local Environmental Plan Menai Town Centre 1992 (SSLEP MTC 1992) applies.

2. What is the Purpose of the Plan?

The purpose of this Plan is to provide planning guidelines for the establishment and control of brothels and sex shops in the Sutherland Shire.

3. Can this Plan be Varied?

Objectives and standards have been set for all aspects of the plan. Each application will be considered on the individual circumstances and merits of the case in terms of the achievement of the objectives stated. The standards are the guidelines to achieving the stated objectives and an applicant may request a variation to any standard, provided the objectives are still achieved.

There are two types of standards:

The Development Standards required or contained in the SSLEP 2000 (as amended).

Any proposal to vary a development standard must be accompanied by a formal objection to the standard under the provisions of the State Environmental Planning Policy No.1.

Other Standards set out in this plan which are generally more detailed and not statutory.

A variation to any of these standards must be supported by a statement demonstrating how the objectives are satisfied despite this variation.

Any submission in support of a variation to a standard must be in writing and demonstrate an ability to achieve the objective (refer to Council's "Guideline to Seek a Variation to a Standard").

4. What are the Objectives of the Plan?

- i) To ensure that the development of brothels and sex shops does not adversely affect the existing and future amenity of surrounding development, land uses and residents.
- ii) To ensure brothels and sex shops are located away from landuses that may be adversely affected by their operation.
- iii) To limit the cumulative impact of several brothels and sex shops establishing in a single area.
- iv) To protect the character of an area or streetscape by controlling displays, advertising and signage.

5. Making an Application

After researching this document it is recommended that intending applicants consult directly with Council's Development Application Assessment Staff prior to preparing detailed development plans.

Pre-application consultation with staff can assist in the time taken to assess applications and reduce amendments required to plans. A prerequisite of consultation is the preparation of a Site Analysis and a Development Concept Plan.

To submit a Development Application, you will need to refer to the following Council documents and fill in the appropriate forms:

Required Information for Industrial, Retail or Commercial Development and Uses

and

Application for Development Consent

and

DA Guide: A Guide to Lodging your Development Application with Sutherland Shire Council

Applicants are advised to use the services of an architect to prepare plans. The Development Application should take into account identified site constraints and the objectives of the relevant development control plans.

Note: Council will not accept a development application unless a site analysis is submitted with the application.

6. Public Notification

Before considering an application for development, Council must advertise or notify the public in accordance with Council's adopted DCP for Notification of Development Applications. Council will advise adjoining property owners and those who, in the Council's opinion, may be affected by the proposed development should it proceed.

Those notified are invited to comment within 14 days, or 28 days if the advertising occurs during December.

Proposals must also be advertised in the local press for comment within the same 14 or 28 day period. An advertising fee is required to be paid at lodgement of development applications.

In assessing and determining an application, Council will take into account matters raised in any submission received.

7. What are the Standards?

Brothels and Sex shops

Before granting an application to carry out development for the purpose of either a sex shop or brothel, the consent authority must be satisfied that:

- i. The impacts of the brothel or sex shop will not adversely affect the neighbourhood because of its size, location, parking arrangements, visual effects and hours of operation.
- ii. The cumulative impact of both brothels and sex shops is not adversely affecting the streetscape by creating an undesirable character, or attracting antisocial behaviour to the area.

Brothels

1) Siting and Location – Brothels

Development for the purpose of a *brothel* may be carried out only with development consent and only if it is not located:

- i. within 200m of any form of residential, open space or special uses zone or land where the activity is identified as a sensitive landuse. Sensitive landuses include, but are not limited to, place of public worship, churches, schools, transport nodes, residential dwellings, child care centres, family health centres, senior citizens centres, licensed premises (licensed under the Liquor Act 1982) and facilities and places typically frequented by families or children;
- ii. within 200m of the boundary of an existing legally operating brothel.
- iii. on land owned by or under the care, control and management of the Council.

2) Staffing and Size of Premises

The following requirements must be met in an application:

- i. the minimum number of staff on the premises at any time shall be limited to two (2) comprising at least one person responsible for management and/or security of the premises.
- ii. the maximum number of sex workers at any time in a brothel is limited to 8.

3) Vehicular access and parking

The following vehicular access and parking requirements must be satisfied:

- i. for a brothel with a single workroom or sex worker a minimum of 3 car parking spaces are to be provided.
- ii. for brothels with more than one employee or workroom additional spaces at the rate of 2 spaces per employee or workroom are to be provided. Spaces are in addition to the minimum required by i. above.
- iii. the amount of available on-street parking will be considered as an addition to the minimum on site parking requirements.

4) Waiting and Reception areas

A waiting or reception area is to be provided inside the building to prevent clients from waiting outside the premises. A minimum area of 20sqm is to be provided.

5) Advertising and display

All advertising must comply with Council's requirements for Industrial zones in the Development Control Plan for Advertising Structures and Signs.

In addition to these Council requirements, all brothels and sex shops must comply with the requirements of the Crimes Act 1900 Section 578 (e) and Classification (Publications, Films and Computer Games) Enforcement Act 1995.

6) Noise and amenity

A brothel must not generate significant levels of noise that may disturb the existing neighbourhood amenity. Any form of window or street soliciting in association with any brothel operation is not permissible.

7) Health and Safety

The premises must be constructed of durable, impervious materials that are easy to be kept clean. Applicants should refer to the "NSW Health Communicable Disease Health and Safety Guidelines for Sex on Premises Venues", which provide detailed cleaning techniques and recommendations.

Development applications are to provide details on measures to be undertaken to ensure the safety of workers, clients and the general public. This is particularly important in isolated industrial areas. Details are to include information on the incorporation of Crime Prevention Through Environmental Design (CPTED) principles including the following:

- i Casual Surveillance of exits and entries
- ii Lighting
- iii Landscaping
- iv Security
- v Safe handling of money.

The health standards set out in Appendix 1 to this Development Control Plan must also be complied with.

Sex Shops

1) Siting and Location – Sex Shops

Development for the purpose of a sex shop may be carried out only with development consent. A sex shop must not be located:

- i. within 50m of any form of residential (excluding 9(a) Mixed Residential/Business zone), open space or special uses zone or land where the activity is identified as a sensitive landuse. Sensitive landuses include, but are not limited to, place of public worship, churches, schools, transport nodes, residential dwellings, child care centres, family health centres, senior citizens centres, licensed premises (licensed under the Liquor Act 1982) and facilities and places typically frequented by families or children
- ii. within 100m of the boundary of an existing legally operating sex shop.
- iii. on the ground floor of retail or commercial premises.
- iv. within immediate proximity to the residential entrances of a mixed development.
- v. where it may conflict with the residential amenity of a mixed development.
- vi. on land owned by or under the care, control and management of the Council.

2) Vehicular access and parking

A minimum of one (1) parking space is to be provided for every 40sqm of floor space.

3) Advertising and display

All advertising must comply with Council's requirements for the General Industrial, General Business and Mixed Residential/Business zones in the Development Control Plan for Advertising Structures and Signs.

In addition to these Council requirements, all brothels and sex shops must comply with the requirements of the Crimes Act 1900 Section 578 (e) and Classification (Publications, Films and Computer Games) Enforcement Act 1995.

8. Origin

Edition 1:

Adopted by Council on 18 November 1996 (EHC 123-97). In effect from 26 November 1996.

Edition 2:

Minor alterations to make the document consistent with the Sutherland Shire Local Environment Plan 2000.

Action	Date
Council Endorse Plan	5 February 2001 (EHC 213-01)
Public Notice (draft)	20 February 2001
Exhibition - Start	20 February 2001
Exhibition - Finish	20 March 2001
Council Decision	30 April 2001
Public Notice (final)	8 May 2001
In Effect	8 May 2001

Edition 3:

Amendments to include additional controls for brothels and sex shops. Council requested amended DCP in response to applications for sex shops. (6 September 2004 – EHC074-05)

Action	Date
Council Endorse Plan	5 October 2004 (CCL 017-05)
Public Notice (draft)	16 November 2004
Exhibition - Start	16 November 2004
Exhibition - Finish	14 December 2004
Council Decision	21 March 2005 (EHC 236-05)
Public Notice (final)	14 April 2005
In Effect	14 April 2005

Appendix 1:

Health Standards for Brothels

Definitions:

Spa bath

means a domestic type bath fitted with a water reticulation system and/or an air injection system. A water heater may be incorporated in the system but a water filter is not required.

Public spa pool

means a water-containing structure:

- a) which is used or intended to be used for human bathing; and
- b) to which the public is admitted; and
- c) which has facilities for heating the water and for injecting jets of water or air into the water;

Public swimming pool

means a water-containing structure:

- a) which is used or intended to be used for human bathing, swimming or diving; and
- b) to which the public is admitted, and includes a water slide or similar aquatic recreational structure.

Work room

means a room which is used by sex workers and clients for the purpose of prostitution.

Cleanliness:

The premises should be kept in a clean condition at all times. The regular use of a contract cleaning service is recommended. Spot cleaning should be carried out by staff. Particular attention should be paid to the following areas:-

1. Showers, baths and toilets

These fixtures are subject to mould growth and have the potential to harbour and spread fungi, particularly tinea. This problem is exacerbated when ventilation is inadequate.

Regular physical cleaning and the use of hospital grade disinfectants are required to control mould proliferation. The proprietor must ensure that baths and showers are cleaned and disinfected after each use, preferably with a hypochlorite based disinfectant.

Soap and single use towels shall be provided for all hand wash basins in the premises.

2. Linen

The proprietor shall provide the following items for the use of each client:

- a) Clean linen or a clean cover; and
- b) Clean towels

All linen, including towelling which comes into contact with clients shall be changed immediately after each use.

Two receptacles shall be provided for the separate storage of clean linen and used linen.

3. Sanitary facilities

Sanitary facilities shall be provided as follows:

- a) **Employees:** one (1) closet fixture, and one (1) shower per 15 employees and one (1) hand wash basin per 30 employees.
- b) **Clients:** one (1) closet fixture, and one (1) urinal per 15 clients and one (1) hand wash basin per 30 clients.
- c) **Work room:** one (1) shower and one (1) hand wash basin per work room

N.B. Separate toilet facilities are to be provided for staff.

All required hand wash basins shall be provided with an adequate supply of potable water, at a temperature of at least 40°C, delivered through an approved mixing device which can be adjusted to enable hands to be washed under hot running water.

Storage and handling of contaminated waste

Contaminated waste shall be disposed of in Environment Protection Authority licensed waste collectors. Used condoms should be double bagged in plastic and placed in the waste receptacle on the premises. All sharps shall be placed in non reusable sharps containers which comply with AS4031-1992. The clearly marked sharps containers shall be placed in all work rooms, and rooms containing sanitary facilities.

Cleaning of linen and laundry facilities

It is recommended that proprietors use private contractors to launder towels, sheets, etc. When premises do carry out laundering on the premises, commercial/industrial equipment must be used. The following steps will assist in minimising health risks associated with linen:-

Two receptacles must be provided for the separate storage of clean linen and used linen.

Wash linen by category in a hot water wash that is a water temperature of 70°C using laundry detergent.

Swimming and spa pools

Access to indoor swimming pools and spas shall be in accordance with the general requirements of Division 3 and Division 4 of the Swimming Pools Regulation (No. 2) 1998.

Officers of Council and the NSW Health Department will carry out periodic tests to ensure the pool water is suitable for bathing purposes.

The temperature of the water in the bathing area of a spa pool should not be allowed to exceed 40°C.

Cleaning and disinfection of pools and spas

Pools and spas shall be kept in such a condition as required by the Public Health (Swimming Pools and Spa Pools) Regulation 2000.

Spa baths shall be drained after each use so they can be cleaned and refilled with fresh water.

Spa pools should be drained each day so they can be cleaned and refilled with fresh water.

Swimming and spa pools must comply with the NSW Health Department "Guidelines for Disinfecting Public Swimming Pools and Spa Pools".

The guidelines for disinfecting public swimming and spa pools can be obtained from Council's Environmental Services Division (Environmental Health Department).

Spa pools should be provided with a system of automatic analysis and dosage control equipment that will maintain the level of disinfectant.

Tests shall be done on every swimming or spa pool before the pool or spa is opened each day, and every four (4) hours when the pool or spa is in use.

The proprietor must keep on the premises an accurate kit used for testing of pool water. The kit must be able to determine the concentration of:-

- a) Free chlorine, total chlorine, and combined chlorine; or
- b) Total bromine; or
- c) Baquacil; and
- d) pH; and
- e) Reserve alkalinity.

A log book of the pool or spa water quality must be kept by the proprietor and may be checked upon inspection by Council officers.

Education of workers and their clients

The proprietor shall provide such information to sex workers in the brothel about sexually transmitted infectious diseases as is necessary to enable the sex workers to perform their work in a manner that is safe and with minimum risk to health.

The proprietor shall provide written information about the transmission of sexually transmitted infectious diseases in a variety of languages at the brothel for the use of clients.

The proprietor shall take reasonable steps to ensure that any information about sexually transmitted infectious diseases provided at the brothel for the benefit of clients or sex workers is medically accurate.

The proprietor shall develop procedures for the safe handling and disposal of sharps and provided such information to sex workers.

If a sex worker has difficulty communicating in the English language, the proprietor must provide the information in a language with which the sex worker is familiar.

Provision and storage of condoms

The practice of safe sex should be the basis on which the brothel operates.

The premises manager must provide an adequate supply of condoms of a variety of size and thickness, dental dams, gloves (and any other approved latex products) and water based lubricants free of charge to the sex worker and their clients; which complies with the relevant Australian Standards. These must be distributed directly to the worker at the time of meeting the client or be freely available in every room. Condom vending machines are not permitted as a means of supply. Different condoms should also be provided for use on the premises. It is recommended that Ansell Duo-Gold, and Glide be the preferred brands.

Condoms should be stored away from light and heat which may contribute to premature deterioration. The proprietor must ensure that workers are well-informed of the need to use condoms and water based lubricant, and well-instructed in their use. All sex workers must wash hands thoroughly after disposal of condoms.

Any equipment, sex toys, etc. which have contact with another person's body fluids must be covered by a new condom for each partner. After each use the condom must be removed and the equipment disinfected with a solution of one part bleach to two parts water.

Working conditions

There must be no evidence of coercion to work as a prostitute, or inducement to practice unsafe sex.

Working conditions must be reasonable, and take into consideration the hours and days worked, the provision of adequate breaks between shifts, and sick leave.

The brothel must allow entry to authorised persons from Council (planning, health, building), NSW Department of Health, or Sex Workers Outreach Project workers.

Examination of clients

The examination of clients must not be seen as an alternative to, or lessening the need for using condoms and water based lubricant. Before any sexual encounter each client should be examined by the worker to detect any visible evidence of sexually transmitted diseases.

Common signs of diseases which may be detected in this way include:-

- a) Any sores, ulcers, lumps, warts or blisters on the genitals or surrounding area.
- b) Any evidence of penile discharges.
- c) Pubic lice or eggs.
- d) Any signs of itching or rashes in the genital or anal area.
- e) Cold sores on the mouth.
- f) Jaundice.

Good lighting is essential for such an examination. The presence of pubic lice is suggestive of possible infection with other STD's and the client should be referred for medical consultation.

It is considered highly desirable that sex workers are immunised against Hepatitis B and that if not immunised a course of immunisation should be commenced as soon as possible.

Ventilation and lighting

The premises shall be ventilated in accordance with the requirements of the Building Code of Australia and AS 1668.2 - 1991. (Mechanical Ventilation for acceptable indoor - air quality)

The premises shall be provide with adequate lighting in accordance with Australian Standard AS 1680.

Food preparation areas

Food preparation areas must be constructed, fitted out and finished in compliance with the Food Act 2003, Food Regulation 2004, Food Standards Code 3.1.1, 3.2.2 and 3.2.3 and AS4674-2004 (Design, construction and fitout of food premises).

Noise

A wall separating a work room, bathroom, sanitary compartment, laundry or kitchen must:

- a) Have an STC of not less than 50, and
- b) The use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment Operations Act, 1997.

Registration and inspections

All brothels shall be registered with Council so that premises may be inspected to ensure compliance with the requirements of Public Health Act and Regulation and other Acts.

An inspection fee of \$100.00 shall apply.

An Environmental Health Officer may enter without paying any admission fee, and inspect, any premises containing a swimming pool, spa pool, kitchen, bar, and work room at any time that the premises are open to the public.

Public authorities

The operation of the brothel shall be in accordance with the requirements of the NSW Department of Health and the Workcover Authority.