

Regulation of Brothels

Development Control Plan 42

KU-RING-GAI COUNCIL



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1. INTRODUCTION

With the passing of the Disorderly Houses Amendment Act (DHAA) 1995, it is no longer a common law offence to operate a brothel or for the owner/operator of a brothel to live on the earnings of prostitution carried out on brothel premises. As a response to this change in State government legislation Ku-ring-gai Council has prepared planning controls for the regulation of brothels within Ku-ring-gai. These controls are designed to ensure that brothels operate in appropriate locations and do not result in a loss of amenity or create adverse social and environmental impacts.

Brothels require Development Consent from Council before they can operate and must also comply with Council's Planning Controls. These controls are contained in the Environmental Planning and Assessment Act 1979 and the Ku-ring-gai Planning Scheme Ordinance of October 1971 together with the provisions of this Development Control Plan.

The Ku-ring-gai Planning Scheme Ordinance outlines the zones where brothels are not a permissible land use. Specific planning controls are elaborated upon within this Development Control Plan. Additionally Council will assess any application for a brothel against those matters set out in Section 17 of the Disorderly Houses Amendment Act 1979.

Council will only consider applications for brothel use where they comply with Council's planning requirements. When assessing the circumstances of the case Council will also consider any public submissions received.

1.1 Aims of the Development Control Plan

The aims of the Plan are:-

- To provide planning controls for the determination of Development Applications to ensure the appropriate location of brothels within the Local Government area of Ku-ring-gai.
- To provide health guidelines for the operation of brothels within the Local Government area of Ku-ring-gai.

1.2 Definition of activity to which this Policy applies

- This policy applies to any development application in the Local Government area of Ku-ring-gai for the following purpose:

“Brothel” means premises habitually used for the purpose of prostitution or that are to be used for that designed purpose. Premises may constitute a brothel even though used by only one prostitute for the purpose of prostitution.



1.3 Owners Consent

As with all Development Applications, the written consent of the owner(s) of the property is required.

1.4 Notification of Applications

All applications for brothels will be advertised in the local press. Adjoining and nearby property owners together with occupiers who in Council's opinion are affected by the proposal will also be notified for a period of fourteen (14) days and comments invited on the proposal. Applications will be determined by Council given the circumstances of the case and in light of any submissions or objections.

1.5 Referrals

Development Applications to establish a brothel will also be referred to other relevant Government agencies and Council departments for comment where considered appropriate.

1.6 Commencement Date

This plan was adopted by Council on 15 December 1998 and applies from 7 May 1999.

2. SPECIFIC REQUIREMENTS AND STANDARDS

The Council must consider the following when assessing an application for consent to the use of premises for the purpose of a brothel:

2.1 Location

- Brothels are not permitted in residential areas or neighbourhood business zones within the Local Government area of Ku-ring-gai. The definition of a "Home occupation" in the Ku-ring-gai Planning Scheme Ordinance prohibits brothels.

Additionally brothels:-

- Shall not be established within 200 metres of any Church or place of public worship.
- Shall not be closer than 100 metres to any educational establishment, place of public entertainment or public library.
- Shall not be closer than 50 metres to any hospital.
- Shall not be closer than 50 metres to the entrance of any railway station.



- Shall not be established within 500 metres of any other established brothel within the Council area.
- Any brothel established within the commercial zone shall not be permitted where it is directly overlooking or visually intruding or overlooking adjoining residential properties or there is any disturbance by the movement of vehicles using services roads to the rear of the commercial premises where a residential zone adjoins.

2.2 Standards

- a. The brothel is not to have an adverse affect on the amenity of the area.
- b. The brothel will not have an adverse affect on surrounding and adjoining land uses and business in the locality or within the same site.
- c. No part of the brothel (other than an access corridor to the premises) is to be located at ground floor level or street level of a building.
- d. No part of the brothel or building in which he premises are situated is to be used as a dwelling unless separate access is available to the dwelling.
- e. No merchandising relating to the brothel is to be erected, displayed or exhibited at any entry or in an access corridor (including any stairwell) to the premises.
- f. The brothel will be accessed by a separate entrance. This is to prevent staff and clients causing a disturbance to other premises in the same building. This entrance should be illuminated to provide a safe access point.
- g. The operations of the brothel will not utilise the circulation areas common to the building.

2.3 Size of Premises

Objective:

To limit the potential for adverse social and environmental impact of brothel uses by controlling the intensity of operation.

Standards:

No more than fir suites/workrooms will be allowed in any one building.

2.4 Amenity

Objective:

To prevent brothels having an adverse affect on the amenity of the area.

Assessment:

The operation of the brothel will be assessed in terms of whether it would interfere with the amenity of the neighbourhood because of its size, operating hours, traffic generation, lighting, noise and/or the number of employees and clients.

2.5 Waiting Areas**Objective:**

To prevent clients loitering outside of brothels.

Standard:

It is required that adequate internal reception/waiting areas be provided for all brothels.

2.6 Parking**Objective:**

Ensure that any development provides adequate car parking facilities for the traffic it is likely to generate.

Standards:

On-site parking shall be provided at the rate of one space per two employees plus one space for each suite or workroom.

However, if the brothel only operates after business hours Council may consider a lesser number of car spaces based on the merits of the case.

2.7 Advertising Structures**Objectives:**

To ensure that advertising of premises does not cause offence to the general public.

Standards:

Development Consent is required for most advertising structures. Council may consent to advertising structures for brothels only if the following conditions are satisfied:

- Signs do not display words or images which are in the opinion of the Council, sexually explicit or otherwise sexually suggestive.
- The sign identifies only the name of the person who conducts the business or the registered name of the business.



- A clearly visible street number must be displayed.
- There is only one sign per premises.
- The Council is satisfied that the content, illumination, size and shape of the sign is well integrated and compatible with the building it is attached to.

2.8 Security and Public Safety

Objective:

To ensure that adequate consideration is given to the personal safety of workers, clients and the general public.

Standards:

Development Applications are to provide details on measures to be undertaken to safeguard workers, clients and the general public. Such details are to address the number of hours of security personnel and the lighting of access ways and car parking areas.

2.9 Escort Agency

An escort agency arranges for the social accompanying of clients.

If the applicant is considering an escort agency from the premises, information is to be provided on the following:

- The number of traffic movements generated and the impact of this on surrounding streets and intersections.
- The number of cars that will be utilised.
- The amount of car parking that will be provided for this additional use of the premises.
- The number of escort personnel.

3. OTHER GENERAL REQUIREMENTS

3.1 Initial Limits on Development Consent

Development Consents granted to brothel applications may be initially limited to a period of twelve (12) months. At the completion of this period, Council will re-evaluate the proposal in terms of any complaints received regarding the approved operations and compliance with any conditions of development consent.

Council may also impose conditions of consent relating to the hours of operation. This will also be the subject of review after 12 months. If after the 12 month trial, the approved hours of operation are causing a disturbance in the neighbourhood, the Council may further restrict operating hours.

Where consent is granted, a specified operator will be nominated on the consent. Should the operator change, the consent would lapse and a new Development Application would be required. If the number of sex workers, hours of operation or signage are proposed to be changed, a new Development Application may also be required.

3.2 Applications to Close Brothels

An application can be made by a Council to the Land and Environment Court under Section 17 of the Disorderly Houses Amendment Act 1995 for premises not be used as a brothel.

This Act specifies the ground under which such applications may be made. The DHAA operates in addition to the existing powers of Council to serve notice upon premises operating without consent, or outside existing conditions of development consent.

It is Council's approach to consider taking action under this legislation where evidence is submitted to Council's satisfaction that the premises is causing sufficient disturbance to the neighbourhood to warrant action.

Storage and Handling of Contaminated Waste

Contaminated waste, in this context, is considered to be used condoms, dental dams, gloves, or any other latex product which has been in contact with body fluids, soiled tissues and the like. It must be disposed of by Environment Protection Authority licensed waste collectors.

Contaminated waste must be stored in approved containers or plastic bags and used condoms must be double-bagged in plastic before being placed in the container. Containers are to be yellow in colour and are to be clearly marked with the International Biohazard Symbol and the words "Contaminated Waste".

Contaminated waste disposal units must be readily identifiable and of sufficient number, location and design for staff to appropriately implement the necessary procedures.

Cleaning of Linen and Laundry Facilities

It is recommended that private contractors be used to launder towels, sheets and linen. When laundering is carried out on the premises, a properly constructed laundry room must be provided and commercial/industrial laundry equipment must be used. The following steps will assist in minimising health risks associated with linen:-



- An adequate number of approved 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 degrees Celsius) using laundry detergent.
- Thoroughly dry all items of linen after washing.

Education of Works and their Clients

The proprietor must adequately inform him/herself about sexually transmitted infectious diseases, including HIV and Hepatitis B and must provide such information to sex works about sexually transmitted infectious disease as is necessary to enable the sex workers to perform their work in a manner that is safe and with a minimum risk to the health of themselves and their clients.

Ventilation and Lighting

The premises should be ventilated in accordance with the requirements of the Building Code of Australia and Australian Code AS 1668.

The premises should be provided with adequate lighting in accordance with Australian Standard AS 1680.

Health Provisions

Evidence of attendance for sexual health tests must not be used as an alternative to safer sex practices. Sexual health certificates should not imply freedom from STD's, nor should sexual health certificates be shown to clients.

Under Section 13 of the Public Health Act 1991, any person who knows that they are suffering sexually transmissible disease and then has sexual intercourse with another person is committing an offence, unless the person has been informed of the risk and has voluntarily agreed to accept the risk.

Similarly, management is also guilty of an offence if they knowingly permit sex works suffering from a sexually transmissible disease to have sexual intercourse with other persons at their premises, unless the client has been informed of the risk and has voluntarily agreed to accept the risk.

There should be no impediment to sex workers taking time off for health reasons.

Examination of Clients

Before any sexual encounter each client should be examined by the sex worker to detect any visible evidence of sexually transmissible disease, and any clients with evidence of an STD should be referred to medical consultation. Good lighting must be provided for such examinations and the proprietor must ensure sex workers are adequately trained to carry out the examinations.

The examination of clients by sex workers must not be seen as an alternative to, or lessening of the need for, observing safe sex practices.

