

D.10: BROTHELS / SEX SERVICE PREMISES

10.1 INTRODUCTION

As a result of various legislation, it is no longer illegal to operate a brothel / sex service premises or for the owner of a brothel / sex service premises to live on the earnings of prostitution.

10.1.1 Application

This section applies to all land to which this DCP applies that is zoned:

- IN2: Light Industrial; and
- IN3: Heavy Industrial;

under the provisions of the Cessnock Local Environmental Plan (CLEP).

10.1.2 Purpose

To give detailed controls and guidance for the location and operation of brothels / sex service premises, so that they minimise the effects on the community and do not result in any loss of amenity.

10.1.3 Definitions

From the Dictionary of CLEP:

brothel has the same meaning as in the Act.

From the *Environmental Planning & Assessment Act 1979*:

brothel means a brothel within the meaning of the [Restricted Premises Act 1943](#), other than premises used or likely to be used for the purposes of prostitution by no more than one prostitute.

From the *Restricted Premises Act 1943*:

brothel means premises:

- (a) habitually used for the purposes of prostitution, or
- (b) that have been used for the purposes of prostitution and are likely to be used again for that purpose, or
- (c) that have been expressly or implicitly:
 - (i) advertised (whether by advertisements in or on the premises, newspapers, directories or the internet or by other means), or
 - (ii) represented,as being used for the purposes of prostitution, and that are likely to be used for the purposes of prostitution.

Premises may constitute a brothel even though used by only one prostitute for the purposes of prostitution.

From the Dictionary of CLEP:

Sex services means sexual acts or sexual services in exchange for payment.

From the Dictionary of CLEP:

Sex services premises means a brothel, but does not include home occupation (sex services).

10.1.4 Aims and Objectives

Aims:

- (a) provide guidelines and set out requirements for brothels / sex service premises; and
- (b) ensure that the operation of brothels / sex service premises meets community standards and does not adversely affect the amenity of land used for educational, recreational, residential, cultural, religious, community or neighbourhood business purposes.

Objectives:

- (a) to ensure that brothels / sex service premises are appropriately located so that they minimise offence to the community and any adverse social impacts;
- (b) to ensure that the access to brothels / sex service premises is discreet and safe for patrons and staff;
- (c) to ensure that brothels / sex service premises are designed so as to minimise the impact and presence of the development in the locality;
- (d) to ensure that there is adequate provision for off-street car parking;
- (e) to ensure that the signage of brothels / sex service premises is discreet and does not cause offence to the general public;
- (f) to promote the safe and healthy operation of brothels / sex service premises;
- (g) to ensure that brothels / sex service premises operate at times where they will have least impact on the community and surrounding neighbourhood; and
- (h) to allow Council to monitor the operation of approved brothels / sex service premises in terms of compliance with conditions of consent and complaints from the general public.

10.2 PERFORMANCE CRITERIA

10.2.1 Location

- (a) Brothels / sex service premises shall not be located within a 100 metre radius of a dwelling-house and a 150 metre radius of any existing churches, schools, hospitals and child care centres.
- (b) Brothels / sex service premises shall not adjoin a residential flat building, an activity operated by a religious institution, restaurant, supermarkets, video shop or amusement centre.

- (c) Access to, or exit from a brothel / sex service premises shall not be near or within view from a church, hospital, bus stop, school or any place regularly frequented by children for recreational or cultural activities.
- (d) Access to, or exit from a brothel / sex service premises shall not be provided within 100 metres of the entry to any other brothels / sex service premises.

Note: All distances referred to are measured along the most direct established pedestrian route between the respective access points.

10.2.2 Access

- (a) Access to brothels / sex service premises is to be discreet.
- (b) Access to brothels / sex service premises shall be discreetly illuminated so that people visiting the brothel / sex service premises do not loiter outside.
- (c) If access is via a side lane or rear entrance, the accessway is to be clearly lit to avoid safety problems for patrons.
- (d) Access for disabled persons will be required to be provided where appropriate, under the Building Code of Australia or the *Environmental Planning and Assessment Act, 1979*.

10.2.3 Design and Layout

- (a) Brothels / sex service premises shall not contain more than 4 separate rooms for the purposes of prostitution.
- (b) Brothels / sex service premises shall be provided with a waiting room of at least 20m², so as to provide patrons with adequate room so as to avoid loitering outside.
- (c) All brothels / sex service premises shall be fitted with the necessary facilities and services for class 6 buildings under the Building Code of Australia.
- (d) All windows shall be covered with blinds or curtains at all times, with the covering material blending with the external colours of the building.
- (e) Brothels / sex service premises shall be designed to be compatible with the built form of adjoining premises.

10.2.4 Hours of Operation

- (a) Hours of operation will be determined at Council's discretion taking into consideration other land uses within the neighbourhood and to avoid times of peak community activity.

10.2.5 Signage

- (a) No chain bulb or flashing sign on the premises is permitted.
- (b) The only signage which is permitted, is a sign located either on the entrance door or wall adjacent to the entrance to the brothel / sex service premises. The sign is to have an area not in excess of 0.9m².

- (c) The sign is to detail the name of the brothel / sex service premises, street address and telephone number only. No lewd, sexually suggestive or offensive writing will be permitted.

10.2.6 Cleanliness

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

(a) *Showers, baths and toilets*

These fixtures are subject to mould growth and have the potential to harbour and spread fungi, particular tinea. Adequate ventilation is to be provided.

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

Liquid soap and single use towels shall be provided to all hand basins required in the premises.

(b) *Linen*

The proprietor shall provide, for the use of each client:

- clean linen or a clean cover; and
- clean towels.

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

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

10.2.7 Adequate Sanitary Facilities

Sanitary facilities shall be provided in accordance with the requirements of Building Code of Australia, Part F.

Separate toilet facilities are to be provided for staff.

10.2.8 Storage and Handling of Contaminated Waste

Contaminated waste shall be disposed of by approved waste collectors. Used condoms shall be double bagged in plastic and placed in an approved waste receptacle on the premises.

10.2.9 Cleaning of Linen and Laundry Facilities

It is recommended that proprietors use private contractors to launder towels, sheets, etc. When laundering is carried out on-site, commercial / industrial equipment shall be used.

The following steps will assist in minimising health risks associates with linen:

- (i) receptacles shall be provided for the separate storage of clean linen and used linen;

- (ii) wash linen by category in a hot water wash that is a water temperature of 70°C using laundry detergent; and
- (iii) thoroughly dry all items of linen.

10.2.10 Disinfection of Swimming and Spa Pool

Definitions

From the Dictionary of CLEP:

***spa pool** has the same meaning as in the Swimming Pools Act 1992.*

From the *Swimming Pools Act 1992*:

***spa pool** includes any excavation, structure or vessel in the nature of a spa pool, flotation tank, tub or the like.*

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

Where a spa pool is in operation, officers of Council and the NSW Health Department, will carry out periodic tests to ensure the pool water is suitable for bathing purposes.

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

- free chlorine, total chlorine, and combined chlorine;
- total bromine;
- baquacli;
- pH; and
- reserve alkalinity.

Swimming and spa pools shall comply with the N.S.W. Health Department 'Guidelines for Disinfecting Public Swimming Pools and Spa Pools'.

All swimming or spa pools shall be disinfected by a method approved by the N.S.W. Health Department. An approved method includes:

- chlorine;
- bromine;
- salt water chlorination; and
- ozone.

Spa pools shall be drained each day for cleaning and then refilled with fresh water. The temperature of the water in the bathing area of the spa pool shall not be allowed to exceed 40°C. Spa pools shall be provided with a system of automatic analysis and dosage control equipment that will maintain the level of disinfectant.

Tests shall be carried out on every swimming or spa pool before the pool or spa is opened each day, and every 4 hours when the pool or spa is in use.

A log book of the pool or spa water quality shall be kept by the proprietor and shall be available for inspection by Council's officers.

10.2.11 Ventilation and Lighting

Brothels / sex service premises shall be ventilated in accordance with the requirements of the Building Code of Australia and shall be provided with adequate lighting in accordance with Australian Standard AS 1680.

10.2.12 Noise

The use of the premises shall not give rise to:

- transmission of vibration to any place of different occupancy;
- a sound level at any point on the boundary of a site greater than the background levels specified in Australian Standard 1055, 'Acoustic - Description and Measurement of Environmental Noise', or
- an 'offensive noise' as defined in the *Protection of the Environment Operations Act, 1997*.

10.2.13 Bars and Food Preparation Areas

All bar and food preparation areas shall be constructed, fitted out and finished in compliance with *Food Regulation 2004* and the National Code for the 'Construction and Fitout of Food Premises'.

10.2.14 Authorisation to Enter the Premises

In addition to emergency service providers, brothel / sex service premises shall allow entry to authorised persons from Cessnock City Council or the N.S.W. Department of Health.

No person under the age of 18 years is allowed in the brothel / sex service premises for any purpose, at any time.

10.3 PERFORMANCE CONDITIONS

10.3.1 Initial Limits on Development Consents

All applications to operate a brothel / sex service premises will be limited to an initial period of approval of 2 years. Should the applicant wish to continue operating past this time period, then an application to amend the condition of consent shall be lodged with Council (in enough time to allow the application to be determined) before the consent lapses.

Council may then decide to:

- (a) allow the brothel / sex service premises to operate indefinitely;
- (b) refuse to allow the brothel / sex service premises to continue operating; or
- (c) grant a further extension.

In making this decision, the Council will take into account compliance with conditions of consent and complaints from the general public.