



23 JUNE 2003

Meeting No 1386

MINUTES of an Extraordinary Meeting of the Council of the City of Sydney held in the Finance Committee Room at the Sydney Town Hall, commencing at 6.00pm on 23 June 2003 pursuant to Notice 11/1386 dated 19 June 2003.

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PRESENT

The Right Hon The Lord Mayor Councillor Lucy Turnbull
(Chair)

Councillors - Dixie Coulton, Nick Farr-Jones, Kathryn Greiner, Robert Ho and Fabian Marsden.

At the commencement of business at 6.00pm those present were:-

The Lord Mayor, Councillors Coulton, Farr-Jones, Greiner, Ho and Marsden.

The General Manager, General Counsel, Director Corporate Services, Director City Development and Projects and Director Living City Services were also present.

ITEM 1. STRATEGIC PLANNING - SEX INDUSTRY POLICY - AMENDMENT (FILE NO:)

Moved by the Chair (the Lord Mayor), seconded by Councillor Coulton -

That arising from consideration of a report by the Manager - Planning Policy and Building Services to the Extraordinary Meeting of Council on 23 June 2003, on Strategic Planning - Sex Industry Policy - Amendment, it be resolved that -

- (A) the City of Sydney adopt the amended Sex Industry Policy (the Policy) as shown at Attachment A to the subject report;
- (B) authority be delegated to the Lord Mayor to make consequential drafting changes to the Policy, as generally required by the subject report; and
- (C) Council comprehensively review the Policy by December 2003.

Carried unanimously.

Note - The Sex Industry Policy, as adopted by Council, is as follows.

SEX INDUSTRY POLICY

PART 1: INTRODUCTION

This policy applies only to those parts of the City of Sydney which were, immediately prior to 8 May 2003, within the South Sydney local government area.

The policy supersedes the South Sydney Brothels Policy (1996) and the South Sydney Interim Sex Industry Policy (1998) which were adopted subsequent to the Disorderly Houses Amendment Act, 1995. Its application is broadened beyond brothels to include the variety of 'sex industries', and adds planning guidelines and assessment criteria for their location, design and operation. It also contains health and safety standards for their design and operation.

South Sydney Council acknowledges the co-operation and assistance of all individuals and organisations who made submissions and assisted with the development of this policy, particularly the AIDS Council of New South Wales (ACON) and the Sex Workers Outreach Project (SWOP) and the NSW Health Department.

1.1 Council's Planning & Regulatory Powers in Relation to Other Authorities

Council's responsibilities in relation to Sex Industry Premises are primarily concerned with land use planning under the Environmental Planning & Assessment Act, 1979. Public health complaints in relation to the operation of brothels are the responsibility of the NSW Health Department. Occupational health and safety issues are matters for the Workcover Authority. However as a consent authority, Council may undertake inspections of Sex Industry Premises so as to determine compliance with conditions of development consent and / or Plans of Management prepared in accordance with this Policy.

The NSW Department of Health is responsible for safe health practices in the workplace, ensuring safe sex practices, public health complaints and sex workers working with sexually transmissible conditions. The responsibility to ensure that safe sex practices are carried out by sex workers in brothels is shared equally between sex workers, brothels owners / proprietors, the NSW Health Department and the Workcover Authority. Sex workers and brothel owners / proprietors have an inherent responsibility to comply with Section 13 of the Public Health Act 1991.

The NSW Health Department provides advice on safe sex practices, can respond to public health complaints with regard to sex workers infected with sexually transmissible medical conditions and is the authority empowered under the Act to prosecute infected sex workers for having sexual intercourse on those premises. The Workcover authority is the primary authority regarding occupational health and safety issues in any workplace. The Australian Federal Police and the Department of Immigration deal with issues of illegal immigrant sex workers.

Issues of criminal behaviour are outside the scope of this policy, as they are matters for the NSW Police Service.

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1.2 Primary Aims of this Policy

Planning Aims: Location, Design & Operation of Premises

- To prevent the location of any new commercial brothels on land that is zoned residential;
- To ensure that all sex industry premises are appropriately regulated under the Environmental Planning & Assessment Act, 1979;
- To minimise any physical amenity impacts of sex industry premises upon adjoining land uses, particularly residential areas and other nearby sensitive land uses;
- To ensure the safety and discretion of clients and staff;
- To avoid any detrimental change to the social character, identity, or perceived image of neighbourhoods;

Public Health and Safety Aims: Design of Premises

- To safeguard public health and safety for sex industry workers and their clients by providing appropriate health and hygiene standards and safety guidelines for premises;
- To ensure that sufficient safe sex information and forms of protection against sexually transmitted disease are provided (without cost) on the premises for all of their users.

1.3 How to Use This Policy

This policy should be read in conjunction with South Sydney Local Environmental Plan 1998 (LEP 1998) and Development Control Plan 1997: Urban Design (DCP 1997). The LEP makes certain Sex Industry Premises permissible in specific land use zones, and the DCP contains performance objectives and controls for all types of development. This policy establishes specific locational, design and operational guidelines for Sex Industry Premises, and is comprised of two broad parts:

- Planning Controls (for location, design and operation)
- Health Standards

The following sections are organised as a two-tiered hierarchy of controls. A series of general controls apply to categories of Sex Industry Premises, then more specific controls apply to specific types of premises.

Premises are categorised either as those that employ sex workers on the premises (i.e. Brothels) and those that do not employ sex workers on the premises (i.e. Sex on Premises Venues & Restricted Premises). The different controls for Brothels, Sex on Premises Venues and Restricted Premises reflect the differing amenity impacts and the different activities that occur on site.

Although health standards (Part 3) are related to the design and operation of premises, they are separated from the planning controls for ease of application of this policy.

SEX INDUSTRY POLICY

1.4 Application of This policy

This policy applies to all sex industry premises defined in this Part of the Policy. ‘Sex Industry Premises’ are premises where sexual activity takes place, is arranged, or a venue for sexual encounters is provided, for financial gain. This financial gain may be a direct payment for sexual services, or consist of the payment of club membership fees or through a club entrance fee. This includes Commercial Brothels, Local Business Brothels, Safe House Brothels For Street Workers; Escort Agencies Offering Sexual Services, Restricted Premises, Sex on Premises Venues and Strip Clubs.

In this policy, Sex Industry Premises are grouped into three broad types with corresponding controls:

- Brothels
- Sex on Premises Venues
- Sex Industry Premises where sexual activity does not take place on site (including Strip Clubs, Restricted Premises & Escort Agencies)

1.5 Different Types of Brothels

This policy recognises a variety of Brothels, which have different planning restrictions under this policy. The following table sets out the essential differences between them, in order to avoid confusion. See below for the definitions.

Type of Brothel	Defining Characteristics	Planning Restrictions
Commercial Brothel	Sex workers employed ‘in house’, but do not reside on the premises	Requires DA. Permissible Zones: 3 & 10
Safe House Brothel	For street sex workers, who do not reside on the premises, or are not based ‘in house’	Requires DA. Permissible Zones: 3 & 10
Local Business Brothel	Small Brothel operated in a dwelling with a maximum of 2 non-resident sex workers	Requires DA. Permissible zones: 3 & 10. Must comply with definition of ‘Local Business’ in LEP 1998. NOTE: South Sydney City Council resolved to amend LEP 1998 to prohibit local businesses sex industry premises in the Residential 2(a) and 2(b) zones. This amendment to the LEP commenced on 12 April 2000 but requires gazettal by the Minister for Urban Affairs & Planning before it comes into effect.
Private Sex Worker Home Business Brothel	Premises operated in a dwelling by one (maximum) resident sex worker and in no more that 10% of any storey within the dwelling.	Permissible zones: 2a, 2b, 3 & 10. Does not Require DA but must conform with definition of ‘Home Business’ in LEP 1998, Council’s Sex Industry Policy and Code of Conduct for Home Businesses.

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1.6 Applying Controls to Composite Premises

Sex Industry Premises often contain a composite of services or facilities (for example, some premises provide backrooms or booths which are part of another use, such as a bookshop, cinema, saunas, etc). As a general principle, premises are categorised as a “Sex on Premises Venue” where payment is made (whether for admission, club membership, use of facilities etc.) and casual sex occurs on site, but sex workers are not employed for the purposes of prostitution. Where Sex on Premises Venues have prostitutes working on the premises, the health standards for brothels apply.

1.7 Definitions

Brothel: Premises used for the purposes of prostitution or other forms of sexual activity for payment and are likely to be used again for that purpose, irrespective of the number of sex workers operating, full time or part time. The premises may operate as a Commercial Brothel, Local Business Brothel, or as a Safe House Brothel.

Clustering of Sex Industry Premises: Is the standard prescribed by Council under this policy for the minimum radius (measured in metres) between any two sex industry premises. The minimum standard adopted by Council for the purpose of this policy is 75m between any proposed sex industry premises requiring development consent and any other category of sex industry premises requiring development consent.

Commercial Brothel: A Brothel where the sex workers are employed ‘in- house’, and do not live on the premises.

Commercial Premises: (Refer: South Sydney LEP 1998): A building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in this clause or a building or place used for a purpose elsewhere specifically defined in Schedule 1 South Sydney LEP 1998.

Escort Agency Arranging Sexual Services: Premises which are used to arrange contacts between sex workers and clients with the intention of sexual activity taking place elsewhere. The sex workers are either based at the premises or visit the premises to obtain work.

Private Sex Worker Home Business Brothel: (Refer: South Sydney LEP 1998): A brothel carried on, in a building, which is or contains a dwelling house or a dwelling, or is within the site area of a dwelling house or dwelling, by the permanent residents of the dwelling house or dwelling, which does not involve:

- the registration of the building, dwelling house or dwelling under the Factories, Shops and Industries Act 1962;
- the employment of persons other than those residents;
- the interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil or otherwise;

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- the interference with the amenity of the neighbourhood due to:
- the generation of vehicular traffic,
- the attraction of customers or clients,
- or the reduction of car parking in the vicinity of the site;
- the display of goods, whether in a window or otherwise; or
- the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling house or dwelling to indicate the name of the resident or the registered business name); or
- the sale of goods by retail from the site

Local Business Brothel: (Refer: South Sydney LEP 1998): A business that would be a home business except that it involves the employment of not more than two persons other than the residents concerned (either on the site of the business or having a base at the site). NOTE: South Sydney City Council has resolved to amend LEP 1998 to prohibit local businesses sex industry premises in the Residential 2(a) and 2(b) zones. This amendment to the LEP commenced on 12 April 2000 but requires gazettal by the Minister for Urban Affairs & Planning before it comes into effect.

Proprietor: The owner and / or manager in sex industry premises, and the principal sex worker in a Local Business Brothel.

Prostitution (as defined by Section 20 of the Summary Offences Act 1988): The act of prostitution includes sexual activity between persons of different sexes or the same sex that comprises sexual intercourse for payment and / or masturbation committed by one person on another for payment.

Restricted Premises (as defined in Local Environmental Plan 1998): A building or place at which:

- Publications classified Category 1 restricted, Category 2 restricted or RC under the Classification (Publications, Films and Computer Games) Act 1995 of the Commonwealth are shown, exhibited, displayed, sold or otherwise rendered accessible or available to the public, or
- A business to which section 578E of the Crimes Act 1900 applies is conducted.

but does not include a newsagency or pharmacy.

Note: Section 578E of the Crimes Act 1900 applies to offences relating to advertising or displaying products associated with sexual behaviour, namely in part: This section applies to products (such as articles, compounds, preparations or devices, but not printed matter) that are primarily concerned with, or intended to be used in connection with, sexual behaviour. Any person who carries on, or who is engaged in, the business of selling or disposing of products to which this section applies must not:

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- Advertise, or cause another person to advertise, in any manner the nature of that business, or
- Exhibit or display any such products:
 - (i) to a person who has not consented to or requested the exhibition or display, or
 - (ii) in a manner so that they can be seen from outside the premises of the business by members of the public.

Safe House Brothel (for Street Workers): Premises where income is gained from the short-term rental of rooms to sex workers (who usually solicit for work on the street) or their clients for the purposes of prostitution. The sex workers are not employed “in- house”, nor do they live on the premises.

Sex on Premises Venue: Premises that gain income from entrance and/or membership fees paid for the use of the premises for sex between the patrons. Typical premises includes: Swingers Clubs, Bondage and Discipline Clubs or Houses, and Sauna Clubs, which accommodate sexual encounters.

PART 2: PLANNING CONTROLS FOR SEX INDUSTRY PREMISES

The following general planning controls apply to all types of sex industry premises. Additional controls also apply to specific types of premises.

2.1 General Controls for ALL TYPES of Sex Industry Premises

Application

This section applies to all sex industry premises. This includes Commercial Brothels, Local Business Brothels, Safe House Brothels For Street Workers; Escort Agencies Offering Sexual Services, Restricted Premises, Sex on Premises Venues, Bondage & Discipline Venues, Swingers Clubs, Strip Clubs and the like, but does not include private sex workers home business premises.

Planning Controls

The following are planning and design criteria that are used to assess Development Applications for Sex Industry Premises. Development consent is needed for all types of Sex Industry Premises before they can legally operate. Council considers Development Applications for such premises on their individual merits, and on their history of operation, but these premises are still subject to the cumulative impact (anti clustering) control in this policy.

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Cumulative Impact

A fundamental planning principle in this policy is to control the cumulative impacts of Sex Industry Premises by controlling their clustering, in order to prevent the formation of perceived “Red Light Districts”. This policy aims to prevent the intensification of red light districts, and to control their adverse amenity impacts upon nearby residential areas and other sensitive land uses.

In assessing a Development Application for Sex Industry Premises, the Council shall consider the proximity of other Sex Industry Premises, both within and outside the local government area. Notwithstanding any other assessment issues, the Council may refuse consent to a sex industry premises if there is another sex industry premises (other than private sex worker home business brothels) located within a radius of 75m, as measured from any point(s) of client access and / or egress at the building proposed to be so used.

Location

Sex industry premises must not be next to or directly opposite: day care or child minding centres, primary or secondary schools, churches, parks, playgrounds, and any other place regularly frequented by children.

In addition to the immediate surrounds, the proximity of such premises (listed above) in the neighbourhood is also to be taken into consideration. Other premises also to be considered in the neighbourhood include residences, community facilities, hospitals and licensed premises (e.g. pubs or places where alcohol is served on the premises).

There are also constraints upon the scale of premises in the Mixed Uses (10) zone, where the existing premises have a history of residential use. Amendment No. 1 of Local Environmental Plan 1998 states the following:

“That Council must not grant consent to the use for non-residential purposes of a building or land within Zone No 10 that was being used for residential purposes on the appointed day (24 April, 1998), unless it is satisfied that:

1. the change of use will not significantly erode the residential character and identity of the locality; and
2. the change of use will not significantly reduce the level of residential accommodation in the area; and
3. the non-residential use on the site will be secondary to the residential use on the site; and
4. the non-residential use will not have an adverse impact on the amenity of the predominant residential use on the site; and
5. The proposed development is consistent with the objectives of Zone No. 10”.

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In addition to this, the definition of the Traditional and Transitional mixed use precincts under Development Control Plan 1997 restrict non-residential uses to 25% of the gross floor space of a building or the ground floor area of a building. Also, the onus is on the applicant to demonstrate how this can be accommodated without impacting on the amenity of adjoining land uses.

In addition, sex industry premises should not be located in areas of predominantly residential use. Sex industry premises shall be separated from any residence (not next to, or directly opposite) by at least one other non-residential land use, in order to create a buffer.

Amenity

The premises should not cause a disturbance or offence in the neighbourhood because of its scale, (including the number of sex workers, support staff and /or clients) and operating hours. "Disturbance" would include any undue noise emanating from the operation of the premises, or from clients arriving or leaving or loitering outside premises, and from possible disturbance of surrounding premises from clients looking for the premises. Insufficient off street parking may also cause a disturbance to the amenity of the area. "Offence" would include indiscreet advertising or the operation of the premises in any way, but would not include solely moral objection.

Waste Disposal

Premises are to make their own arrangements for trade waste collection, and ensure that any potentially hazardous waste is collected by a clinical waste contractor. Waste containers are to be stored and collected from within the site.

Design of Premises

Building design for any sex industry premises is to be compatible with surrounding built form and is to be consistent with the principles in the South Sydney Development Control Plan 1997. In addition:

Where Sex Industry Premises are to be located at street level on shopping strips, it must be located behind another tenancy which is not a sex industry premises, nor is it related or internally linked to the adjacent sex industry premises. The primary intention of this provision is to prevent the shop front being used for the purpose of a Sex Industry Premises, irrespective of whether sex related goods are displayed or sold.

The entrances, exits and external appearance of the premises should be well lit but not to the extent where it becomes a prominent feature in the streetscape. Further, the paint finishes on the external walls of the building should not be such that the building becomes a prominent feature in the streetscape (e.g. fluorescent or excessively bright colours).

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Access for people with a disability should be provided in accordance with all relevant legislation. In particular, the Disability Discrimination Act (DDA) requires that major entrances to premises to which the public is entitled to enter need to be designed and constructed to provide equitable treatment of users and meet minimum standards of grade, doorway width and connectivity.

Spruikers: Are not permitted in association with the operation of any sex industry premises.

Signage

No signs may display words or images, which are in the opinion of the Council, sexually explicit, lewd or otherwise offensive. Signs should comply with the following criteria:

- the sign does not exceed 1 metre x 0.3 metres in size (or other dimensions, but of equivalent surface area), and 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 not likely to interfere with the amenity of the neighbourhood;
- there are no flashing lights visible from outside the premises;
- the dimensions and finish of the sign is compatible with the building it is attached to.

Surveillance: Casual surveillance of exits and entries is essential to ensure the safety of all workers and visitors to such premises. Accordingly, entrances and exits of sex industry premises should be designed to facilitate the privacy of workers and clients, without compromising personal safety (such as isolated back lanes and poorly lit areas). Adequate lighting of entrance and exits is essential to ensure the safety of sex workers and clients who are leaving and arriving at the premises. Any landscaping that is proposed should not obstruct the visibility and overlooking from public areas of entrances and exits so as to ensure the safety of all workers and visitors to such premises.

External Display: Sex Industry Premises shall not display sex workers or sex related products from windows, the front door or outside of their premises. However, premises are to minimise nuisance to neighbours by clearly numbering the building, with the number being clearly visible from the street.

Mixed Uses Zone: In mixed-use zones, reference should be made to Local Environmental Plan 1998 and Development Control Plan 1997: Urban Design, which restricts the proportion of non-residential development.

Plans of Management: A Plan of Management is to be submitted with Development Applications for all types of Sex Industry Premises, unless specifically waived by Council. Considerations to be addressed are included in the Appendix. The proprietor of a business shall be held responsible for ensuring that the premises are run in accordance with an approved Plan of Management and any strategies included.

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2.2 Additional Planning Controls for COMMERCIAL BROTHELS

Planning Controls: The following planning controls and assessment criteria apply in addition to the above general planning controls (Section 2.1) for all types of sex industry premises.

Consent: Commercial Brothels fall under the definition of 'Commercial Premises' under the South Sydney Local Environmental Plan 1998, and are permissible in the 3 (Business) and 10 (Mixed Uses) zones, but they should not be located adjacent to or near predominantly residential uses. LEP 1998 also allows such development in other zones, if it can be demonstrated on the merits of the case, that the development is consistent with the zone objectives.

Parking: One car parking space per two sex workers shall be provided on-site for brothels. This requirement may be waived if the applicant can demonstrate that there is adequate available on-street car parking or public transport services close to the premises. For further information on car parking details and requirements for Brothels see Council's Development Control Plan N° 11 "Transport Guidelines for Development"

Safety & Security: Council's Development Control Plan 1997 deals specifically with the issue of incorporating safety concerns as part of building design. However, measures to ensure the safety of staff, clients and visitors must form part of the Plan of Management accompanying a Development Application.

Reporting Violent Crime: Brothels should ensure that all measures are taken to prevent crimes of violence, such as sexual assault, from occurring in the workplace. However, when such events occur, sex workers should be encouraged to and supported in reporting the incident to the police and support organisations.

Security Intercom / Alarms: All premises are to have an alarm or intercom in each room that is used for sexual activity. These alarms are to connect back to a central base (such as reception) that is to be monitored at all times. This is to ensure the safety of both clients and sex workers.

Security Guards: Licensed security officers may be appropriate to patrol premises particularly entrances and exits to ensure the safety of clients and sex workers. This is a matter that should be addressed as part of the Plan of Management accompanying a Development Application.

Staff Rooms: All brothels and other appropriate sex industry premises are to have a safe and accessible non-working area with appropriate facilities for staff on breaks. These facilities should include fully equipped bathroom and food and beverage preparation areas.

Serving Alcohol: Under NSW Liquor Licensing laws, brothels may not sell alcohol.

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2.3 Additional Planning Controls for SAFE HOUSE BROTHELS

The following planning controls and assessment criteria for Safe House Brothels apply in addition to the general planning controls for all types of sex industry premises (Section 2.1) and Commercial Brothels (Section 2.2), where relevant.

Special Characteristics & Requirements of Safe House Brothels: Safe House Brothels differ to Commercial Brothels in that they pose different and potentially greater amenity impacts. They are also different in their need to locate near areas where street sex workers operate and in proximity to one another, in order to operate with minimal amenity impact. The sex workers operating from Safe House Brothels often solicit from the street, and their clients are often non-locals. Street soliciting by sex workers is regulated by the Summary Offences Act (1988), which makes street soliciting an offence in sight of certain sensitive land uses (including schools, churches, etc).

Planning Controls: The following planning controls and assessment criteria apply in addition to the above general planning controls (Section 2.1 & 2.2) for all types of sex industry premises and commercial brothels.

Consent: Safe House Brothels fall under the definition of ‘Commercial Premises’ under the South Sydney Local Environmental Plan 1998, and are permissible in the 3 (Business) and 10 (Mixed Uses) zones. LEP 1998 also allows such development in other zones, if it can be demonstrated on the merits of the case, that the development is consistent with the zone objectives.

Location: Council recognises that there is a need for safe house brothels to be located in close proximity to areas used for street soliciting by sex workers so as to prevent prostitution occurring in cars, laneways, parks or other public spaces. However, safe house brothels should not be located adjacent to, opposite or near predominantly residential uses. If the premises are located in a lane, the whole lane and the entrance/ exit of the premises should be well lit at night, and have good opportunities for passive surveillance. In addition, Safe House Brothels shall be located in areas of a high level of pedestrian activity or that are “alive and active” late at night (usually on or close to arterial roads).

Independent Access / Egress: Safe House Brothels must only be located in buildings where the premises have independent and exclusive entry / exit to the street.

Compliance: The proprietor of the Safe House is to be responsible for ensuring that the health standards for the premises (in parts 3.1, 3.2 of this policy) are complied with. How this is to be achieved is to be included in a Plan of Management.

Parking: 1 car parking space per 50 m² is required. Waiving of this requirement may be considered on merit.

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2.4 Additional Planning Controls for LOCAL BUSINESS BROTHELS

Planning Controls: The following planning controls and assessment criteria apply in addition to the above general planning controls (Section 2.1) for all types of sex industry premises.

Consent: Local business brothels fall under the definition of 'Local Business' under the South Sydney Local Environmental Plan 1998. Such premises are operated in a dwelling with a maximum of 2 non-resident sex workers. These are permissible only with development consent in the Business 3, and Mixed Uses 10 zones. NOTE: South Sydney City Council has resolved to amend LEP 1998 to prohibit local businesses sex industry premises in the Residential 2(a) and 2(b) zones. This amendment to the LEP commenced on 12 April 2000 but requires gazettal by the Minister for Urban Affairs & Planning before it comes into effect.

Compatibility: It is important that Local Business Brothels are designed to discreetly blend into the streetscape. The following are essential:

- The premises shall provide a safe indoor waiting area for clients.
- All bathrooms and toilets shall be contained within the premises.
- The outside appearance of the premises from the street shall not be unduly different from other dwellings on the street or in a building (e.g. windows should not be blacked out, of use an exterior red light).

Number of Workers on Premises: The number of workers is limited to the residents of the dwelling plus up to two non resident workers. Such premises may, in certain circumstances be able to be located within a dwelling in the Business or Mixed Uses zone. However, due to the amenity tests of the LEP, the Council would not support such applications within a residential flat building in any zone.

Parking: Although no on site car parking is required for a local business, Council may seek an order to close such premises if the lack of on site car parking is resulting in a significant loss of amenity associated with off site carparking in the neighbourhood.

Signage: A clearly visible street number must be displayed. Development consent is not required for a sign for a Local Business for a maximum of one, non-illuminated external wall sign no greater than 0.6m x 0.3m (or other dimensions, but of equivalent surface area). No signs may display words or images, which are in the opinion of the Council, sexually explicit, lewd or otherwise offensive.

2.5 Additional Planning Controls for PRIVATE SEX WORKER HOME BUSINESS BROTHELS

Planning Controls: The following planning controls and assessment criteria apply in addition to the above general planning controls (Section 2.1) for all types of sex industry premises.

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Consent: In zones where a home business is permitted, consent for such uses is not required under South Sydney Local Environmental Plan 1998. Private Sex Worker Home Business do not need to have Council's consent. However, premises must comply with the definition of a home business, otherwise development consent is required.

Under Council's adopted DCP for Exempt & Complying Development, home business private sex worker operations are limited to only one resident sex worker, and the working room or area must not occupy more than 10% of the floor area of any storey within the dwelling. In addition, the home business must comply with the Building Code of Australia classification for the particular class of building. Where the home business changes the classification of the building, a DA is required.

Location: A Private Sex Worker Home Business brothel may be located in zones 2(a), 2(b), 3 (Business), and 10 (Mixed Use) zones without consent, provided such premises are able to be operated in accordance with the definition in LEP 1998, Council's Exempt & Complying Development DCP and the South Sydney City Council Code of Conduct for Home Businesses.

Code of Conduct: South Sydney City Council has prepared a generic Code of Conduct for all Home Businesses. All home businesses should retain a copy at the dwelling at all times to ensure compliance and to provide a ready source of information concerning the rights and responsibilities of residents.

Parking: Although no on site car parking is required for a Private Sex Worker Home Business, Council may seek an order to close such premises if the lack of on site car parking is resulting in a significant loss of amenity associated with off site car parking in the neighbourhood.

Signage: A clearly visible street number must be displayed. Development consent is not required for a sign for a Private Sex Worker Home Business for a maximum of one, non-illuminated external wall sign no greater than 0.6m x 0.3m (or other dimensions, but of equivalent surface area). No signs may display words or images, which are in the opinion of the Council, sexually explicit, lewd or otherwise offensive.

Design: The premises shall provide a safe indoor waiting area for clients.

Compatibility: It is important that Private Sex Worker Home Business premises are designed to discreetly blend into the streetscape. The following are essential:

- The premises shall provide a safe indoor waiting area for clients.
- All bathrooms and toilets shall be contained within the premises.
- The outside appearance of the premises from the street shall not be unduly different from other dwellings on the street and / or when viewed from common areas within a building containing multiple tenancies (e.g. windows should not be blacked out, or use an exterior red light).

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2.6 Additional Planning Controls for SEX ON PREMISES VENUES

Planning Controls: The following planning controls and assessment criteria apply in addition to the above general planning controls (Section 2.1) for all types of sex industry premises.

Consent: Sex On Premises Venues fall under the definition of ‘Commercial Premises’ under the South Sydney LEP 1998, and are permissible in the 3 (Business) and 10 (Mixed Uses) zones, but they should not be located adjacent to or near predominantly residential uses. Further the zoning provisions and amenity tests of the LEP, preclude the establishment of such premises in the 2(a) and 2(b) zones or within a residential flat building in any zone.

Parking: 1 space per 20 m² (in line with clubs) is required. Waiving of this requirement may be considered on merit.

2.7 Additional Planning Controls for RESTRICTED PREMISES

Planning Controls: The following planning controls and assessment criteria apply in addition to the above general planning controls (Section 2.1) for all types of sex industry premises.

Consent: Restricted Premises are defined under the South Sydney Local Environmental Plan 1998, and are permissible in the 3 (Business) and 10 (Mixed Uses) zones, but they should not be located adjacent to or near predominantly residential uses. LEP 1998 also allows such development in other zones, if it can be demonstrated on the merits of the case, that the development is consistent with the zone objectives.

Design & Operation of Premises: No part of the restricted premises or building in which the premises are situated shall be used as a dwelling unless separate access is available to the dwelling.

Casual Sex: Where booths or any designated area is provided on the premises for casual sex, the premises are assessed as a ‘Sex on Premises Venue’. In this case, controls for both land uses, where relevant, shall apply.

Parking: 1 space per 50 m² is required. Waiving of this requirement may be considered on merit.

External Appearance: The entrances, exits and external appearance of the premises should be well lit but not to the extent where it becomes a prominent feature in the streetscape. Further, the paint finishes on the external walls of the building should not be such that the building becomes a prominent feature in the streetscape (e.g. fluorescent or excessively bright colours).

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PART 3: HEALTH STANDARDS

Council's Environmental Health Officers have the powers to conduct regular inspections of all sex industry related land uses, to determine whether they are complying with these health standards.

The Council's Health Standards are supported by the Health & Safety Guidelines for Brothels in NSW issued by NSW Health and Workcover NSW in October 1997. These Guidelines state that "the workplace must allow entry to authorised persons from Council (planning, health and building), Workcover NSW, NSW Department of Health, Unions and the Sex Workers Outreach Project."

The first part of this section addresses health and hygiene requirements that apply to all sex industry premises. The second part outlines additional specific health standards for brothels and sex on premises venues.

3.1 General Health Standards for all types of SEX INDUSTRY PREMISES

The following health standards apply to all types of sex industry premises, Additional standards (below) also apply to specific types of premises.

Plans of Management

In addition to all relevant planning information, Plans of Management must outline all relevant activities likely to be conducted on the premises with regard to high risk conduct such as skin penetration and discharging of body fluids and waste matter. The plan must outline infection control procedures with details for each separate activity including cleaning methods and agents, disinfection methods and agents, and sterilisation procedures. The plan should also address staff training strategies and it should be noted that the plan shall be referred to the NSW Department of Health for comment.

Cleanliness

The premises should be kept clean and in a good state of repair 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 showers, baths and toilets. These fixtures are subject to mould growth and have the potential to accumulate and spread fungi, particularly tinea. This problem is increased when ventilation is inadequate. Regular cleaning is required to control mould. The proprietor must ensure that baths and showers are cleaned and disinfected after each use preferably with a sodium hypochlorite-based disinfectant.

Soap and single use towels shall be provided to all wash basins required in the premises. Soap dispensers and air hand dryers are recommended in premises experiencing problems with maintaining soap and paper towels.

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Storage and Handling of Waste

There should be provision for disposal of used condoms, dams, gloves, soiled tissues and the like in the rooms where sexual activity takes place. All waste containers should be capable of being kept clean and be waterproof.

If contaminated sharps (e.g. needles or razors) are generated, then non reusable sharps containers which comply with Australian Standard AS4031, should be provided for their disposal. Council does not collect trade waste. Final disposal must be conducted by Environment Protection Authority licensed contaminated waste contractors. Waste containers are to be stored and collected from within the site.

Disinfection of Swimming & Spa Pools

For the purpose of this policy a “spa pool” is a pool fitted with a water recirculatory system and / or an air injection system and a water filter.

A “spa bath” is a domestic type bath fitted with a water recirculation system and/or an air injection system. A water heater may be incorporated in the system, but a water filter is not required. Spa baths must be drained after each use so they can be cleaned and refilled with fresh water. Officers of Council and the NSW Health Department may carry out periodic tests to ensure the pool water is suitable for bathing purposes. All swimming or spa pools must be disinfected by a method recommended by the NSW Health Department. These methods include the use of chlorine; bromine; salt water chlorination; or ozone. Refer also to the NSW Health Department’s Protocol for Minimising Risk of Cryptosporidium Contamination in Public Swimming Pools and Spa Pools (1999)

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. A log book of the pool or spa water quality must be kept by the proprietor and may be inspected by Council’s officers.

Swimming and spa pools must comply with the NSW Health Department’s “Public Swimming Pool and Spa Pool Guidelines”. 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:

- free chlorine, total chlorine, and combined chlorine;
- total bromine; or
- baquacil; and
- PH;
- reserve alkalinity.

Spa pools should be drained regularly so they can be satisfactorily cleaned and refilled with fresh water.

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

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

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

Ventilation and Lighting

The premises shall be ventilated in accordance with the requirements of the Building Code of Australia and Council's Ventilation Code. The premises shall be provided with adequate lighting in accordance with Australian Standard AS 1680.

Noise

The use of the premises shall not give rise to:

- transmission of vibration to any place of different occupancy; or
- 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 Noise Control Act 1975.

Bars & Food Preparation Areas

All bars and food preparation areas must be constructed, fitted out and finished in compliance with the Food (General) Regulations 1997 and the National Code for the Construction and Fit-out of Food Premises.

3.2 Additional Health Standards for all types of BROTHELS

The following standards apply in addition to the above general standards (section 3.1)

Linen

The proprietor must provide clean linen (or a clean bed cover) and clean towels for the use of each client.

All linen, including towelling and other bed coverings which comes into contact with clients or workers shall be changed immediately after each use. If towels or similar bed coverings are used they must be of sufficient size to prevent contact with bed linen that is not intended to be changed after each client.

An adequate number of receptacles (suitably stored and protected from contamination) shall be provided for the separate storage of clean linen and used linen.

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Cleaning of Linen & Laundry Facilities

It is recommended that private contractors be used to launder towels, sheets, and linen. When laundering is carried out on the premises, commercial/industrial equipment must be used. The following steps 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 in a hot water wash that is at water temperature of 70°C using laundry detergent.
- Thoroughly dry all items of linen.

Adequate Sanitary Facilities

All bathrooms and toilets are to be self contained and inside the premises.

It is recommended that each room contains its own sanitary facilities (including toilet, shower/bath and a hand basin) for the use of both sex workers and their clients.

However, if this is not practical then adequate sanitary facilities must be provided. This is at the discretion of Council. As a guide one bathroom with full facilities would be sufficient to accommodate three rooms or a three sex worker operation. Also if spa pools, saunas or steam rooms are proposed then additional shower facilities are required.

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

Education of Workers & Clients

The proprietor must provide such information to staff in brothels (including Private Sex Worker Home Business brothels) about sexually transmitted infectious diseases as is necessary to enable the sex workers or themselves to perform their work in a manner that is safe and with minimum risk to health.

The proprietor must provide written information about the transmission of sexually transmitted infectious diseases (STDs) in a variety of languages for clients and staff.

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

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.

S.W.O.P. and the Kirketon Rd Centre, for example, can provide more assistance in this regard. Also refer to Part 5 (Appendix) for further information.

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Health of Sex Workers

It is recommended that sex workers be immunised against hepatitis A and B. If a sex worker is not immunised, then a course of immunisation should be commenced as soon as possible.

Protocols are to be prepared and implemented as part of any Plan of Management to assist sex workers and staff to manage risk exposures such as blood and body fluid splashes, needle stick injuries and the like.

It is also desirable that sex workers attend a sexual health centre or private doctor for sexual health assessment, counselling and education appropriate to individual needs. Frequency of assessment is a matter for determination by the individual sex worker in consultation with his/her clinician.

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 STDs nor should sexual health certificates be shown to clients.

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

NOTE: Sex workers should be made aware that certain sexually transmissible conditions have no symptoms (e.g. chlamydia) and can be carried and transmitted. The best action is medical testing and to always follow safe sex practices.

NOTE: Under Section 13 of the Public Health Act 1991, any person who knows that they are suffering from a 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, the proprietor is also guilty of an offence if they knowingly permit sex workers 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.

Provision, Storage & Use of Condoms, Latex Products & Other Equipment

Condoms, dental dams and gloves (or any other approved latex products) 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, dental dams, gloves (or any other approved latex products) and water based lubricant, and well-instructed in their use.

The practice of safe sex should be the basis on which the sex industry premises operates. Sex industry premises must only use safe sex equipment that complies with Australian Standards.

The proprietor must provide an adequate supply of condoms of a variety of thickness, dental dams, gloves (and any other approved latex products) and water based lubricants free of charge to the sex worker and their clients.

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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. In Safe House Brothels, the proprietor must directly distribute this equipment to the sex worker at the time of entering the premises.

Any equipment or sex toys which have contact with another person's body fluids should be covered by a new condom for each partner. The condom must be removed and discarded after each use, and the equipment cleaned using detergent and water, and then disinfected. All sex workers and staff must wash hands thoroughly after disposal of condoms.

To disinfect after cleaning, equipment must be rinsed and immersed for ten minutes in a solution of one part bleach to two parts water. After immersion the equipment must be rinsed and dried prior to use. Equipment which cannot tolerate immersion (for example, vibrators) must be cleaned by wiping with detergent and water and then disinfected by wiping with either a solution of one part bleach to two parts water or 70% alcohol, rinsed and allowed to dry prior to use. Cleaning and disinfection should be compatible with the manufacturer's instructions.

Examination of Clients of Sex Workers

The examination of clients must not be seen as an alternative to, or lessening of the need for, observing safe sex practices. Before any sexual encounter each client should be examined by the sex worker to detect any visible evidence of STDs.

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

- Any sores, ulcers, lumps, warts or blisters around the penis, vulva and genital area
- Any evidence of penile discharge
- Pubic lice or eggs
- Any signs of itching or rashes in the genital or anal area.
- Jaundice

Good lighting must be provided for such examinations. The proprietor must ensure sex workers are adequately trained to carry out examinations. S.W.O.P. can provide training in this regard (also refer to Section 5: Appendix). Any client with evidence of a STD should be refused any sexual contact and referred for medical consultation.

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3.3 Additional Health Standards for SEX ON PREMISES VENUES

The following standards apply in addition to the above standards in section 3.1.

Condoms, Dental Dams, Lubricant: The proprietor should ensure that staff promote the use of condoms and water based lubricant by making them freely available to all patrons in all cubicles, rooms and sexual activity areas. Dental dams should be made available upon request. Signage to this effect should be displayed at the front counter. Condoms and water-based lubricants must be easily visible in all areas where sex may take place. These should be checked at regular intervals. It is recommended that this occur hourly to ensure adequate supplies are available.

Sharps: The proprietor must provide a "sharps" disposal unit accessible by patrons in order to minimise the risk of "needlestick" injury. "Sharps" disposal units are best located in or around the toilet area where used injecting equipment is likely to be used (e.g. near running water).

Information: Safe sex and sexually transmitted disease information should be easily accessible to all patrons. Research shows that information located close to exit doors is more likely to be picked up and taken away. HIV/AIDS information is provided by the Aids Council of NSW, the Kirketon Rd Centre, and other agencies who regularly stock updated information for distribution (see Section 5: Appendix).

Cleanliness: The premises should be constructed of durable, impervious materials that are easy to be kept clean.

Cleaning: Cleaning should be carried out regularly with particular attention to all vinyl or rubber mattresses and other places or surfaces where sexual activity does or is likely to occur. Consideration should also be given to providing appropriate cleaning and disinfection agents for use by patrons in cubicles. This procedure could be particularly advantageous during busy times when staff are unable to access cubicles or rooms.

Sanitary Facilities: Adequate facilities should be provided on the premises together with liquid soap and single use towels. These facilities (toilets, urinals, wash basins and showers) should be provided in the area where sexual activity takes place and patrons should not have to move from a sexual activity area to a non activity area to use toilets/hand basins. Backrooms which are ancillary to adult book shops are exempt from providing shower facilities.

Lighting: The proprietor must ensure that levels of lighting are adequate to highlight safe sex messages and to easily locate condom and lubricant dispensers. As sex on premises patrons prefer an atmosphere created by low level lighting and darkness it is imperative that the patrons are able to locate and use safe sex resources effectively and also that effective cleaning of the premises can take place. Cubicles should be fitted with user adjustable dimmer switches. This is to ensure that full lighting is available before and after sexual activities for health and safety reasons.

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Education: The proprietor should ensure that venue staff is made aware of information on, and health practices for sexually transmitted and blood borne diseases. Staff awareness is intended to enable venue staff to refer patrons to appropriate organizations/ resources.

3.4 Additional Health Standards for BONDAGE & DISCIPLINE PREMISES

The following standards apply in addition to the above standards in sections 3.1, 3.3

Plans of Management: Must outline all activities likely to be conducted on the premises with regard to high risk conduct such as skin penetration and discharging of body fluids and waste matter. The plan must outline infection control procedures with details for each separate activity including cleaning methods and agents, disinfection methods and agents, and sterilisation procedures. The plan should also address staff training strategies and it should be noted that the plan shall be referred to the NSW Department of Health for comment.

Additional Information: Bondage & discipline premises must provide additional information to staff and clients regarding the danger of spreading blood borne viruses (especially Hepatitis C). Such information is to include (but is not limited to) any publications and advisory services provided by the Hepatitis C Council of NSW.

Skin Penetration: If skin penetration procedures are conducted then there must be full compliance with Part 3 of the Public Health Act 1991 - Regulation and the NSW Health Department's Skin Penetration Guidelines. Also the premises must be registered on Council's Health and Community Services Department's Skin Penetration Register.

Sanitary Facilities: In addition to the requirements under Section 3.2 (Brothels) for sanitary facilities, a hand basin must be provided in all rooms where bondage and discipline activities are administered.

PART 4: ADDITIONAL INFORMATION

4.1 Submitting Development Applications for Sex Industry Premises

Development consent is needed for types of all Sex Industry Premises before they can legally operate. The following sets out how to utilise the Planning system in to set up Sex Industry Premises. In addition, refer to section 1.3 on 'How to Use This Policy'.

The following shows how planning policies need to be used in making an application for Sex Industry Premises.

Definitions: Categorise the Sex Industry Premises in terms of the definitions in Section 1 of this policy.

Zoning: If you have a location in mind, check whether the premises are permissible in that zone. Refer to the relevant section of the Planning controls in this policy.

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Locations: Within zones, find a location that fits the planning guidelines in this policy. You must pay particular attention to 2 locational constraints which may apply: the cumulative impact controls in the locational guidelines, and Clause 37 of the South Sydney Local Environmental Plan 1998.

Health: Apply the health standards for the design and operation of premises (Part 3 of this Policy). Refer to other relevant policies, (which set out additional and general controls which apply to all types of development), including the Urban Design DCP, DCP 12 - 'Transport Guidelines for Development', and DCP7- Outdoor Advertising Guidelines.

Help: If you have any questions, consult Council's Duty Town Planner. It is suggested that you do this before submitting a Development Application. It would often be the case that additional information is required for such applications, such as Plans of Management, Statements of Environmental Effects, etc.

4.2 Requirements for Development Applications

In submitting a Development Application, you must include the following written information and plans:

Completed Development Application form;

Statement of Environmental Effects which includes the following:

- Number of sex workers (if relevant) and support staff.
- Description of the activities that are proposed to be undertaken at the premises
- Hours of operation.
- Number of rooms in the premises.
- The rooms to be used for the proposed activities.
- The name of the proprietor.

Plan of Management. This may be integrated into the Statement of Environmental Effects. A Plan of Management should cover the operation and management of Sex Industry Premises, or in other words, how the premises achieves the objectives and criteria set out in this policy. The Appendix sets out necessary considerations to be addressed in Plans of Management for all types of Sex Industry Premises, as well as additional considerations for Brothels, Safe House Brothels (including an extract of a model Plan), and for Sex on Premises Venues.

Owners Consent: As with all development applications, the written consent of the owner(s) is required. It should be noted that any development application in a strata titled residential flat building must be accompanied by the written consent of the Body Corporate (including their seal), as well as the individual unit owner(s).

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Plan Information

All of the following must be included in all Development Applications:

- Location plan; showing distance in metres from the boundaries of residences, churches, community facilities, primary or secondary schools, day care or child minding centres, parks, playgrounds, hospitals and licensed premises within 75 metres of the site.
- Site plans and floor plan (including the use of each room).
- Entrances to and exits from the site.
- Reception areas.
- Location, number and layout of parking spaces.
- Advertising signs (size, number, colour, illumination and content).
- Details of the existing and proposed external lighting.
- The number and location of sanitary facilities including toilets, showers and hand basins.
- Details of food preparation areas and storage areas.
- Details of garbage and recycling storage areas.

If the proposed brothel or sex industry premises is a part of a new building or involves alterations and additions to an existing building architectural plans are required clearly showing the new work. An application for a Construction Certificate may also be required.

Development Application Checklist

For All Types of Sex Industry Premises you must submit (with the appropriate fees):

- Completed Development Application forms, signed by the owner/s of the land, and plans showing a site analysis drawing; a site plan, floor plans, elevations, and sections (where required)
- If building works are included- an application for a construction certificate
- A Waste Management Plan
- A Plan of Management
- Information on the arrangements for the disposal of clinical waste, included in the Waste Management Plan or in the Plan of Management
- A Statement of Environmental Effects

4.3 Notification

The above information as with all development applications is publicly available. Council, consistent with its notification policy shall notify the neighbouring property owners of the proposed use and provide a period of two weeks for public comment on the proposed development. Objections to applications for sex industry premises may be shown to the applicant and other members of the community.

As part of the assessment of Premises on trial approval, Council may check with the Police on complaints received about those premises.

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4.4 Frequently Asked Questions

How long does it take for a Development Application to be assessed?

This can vary depending on a number of matters including, the scale of the application and the number of objections received. However, on average these matters tend to take around 8-12 weeks.

What if some one objects to my application for a Brothel or other sex industry related land use?

Council considers the objection to the development application as it would to an objection for any other type of development. This means that Council shall consider the application and any objections to it with respect to this policy, Council's Development Control Plan 1997, Local Environmental Plan 1998 and the Environmental Planning and Assessment Act 1998. If your application receives objections to it, it does not automatically mean that your application is to be refused.

How are the Police involved with the assessment of my application?

Council shall view your application for a sex industry land use as it would for any other commercial business and shall not refer your application to the police. However as part of the assessment of existing premises, Council may check with the Police on complaints received about those premises.

What applications do I need to lodge with Council?

If you want to operate a commercial brothel or other sex industry premises you must lodge a development application for that use. If there are any building works associated with the proposal you must also have to lodge an application for a construction certificate with either Council or a private certifier. You then have to appoint a principle certifier who is responsible for issuing you with an occupation certificate once the works are complete.

If my development application is approved can I commence operating?

If your development application is approved and there are no building works included as a part of the application you can commence operation. However, if your application involves building works, including alterations and additions to an existing building you may have to lodge a Construction Certificate with either Council or a Private Certifier. The construction certificate may be lodged as a combined application with the development application if you wish.

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What inspections may Council's undertake?

Council undertakes an initial inspection of the site and surrounding area when your development application for a sex industry land use is lodged. If this application is approved and it involves building work that the Council is overseeing, building inspections must be organised to ensure that you comply with the Building Code of Australia. After the building stage is complete there may also be periodic inspections to ensure that the requirements of this policy are being met. There may also be inspections if complaints are made about your brothel or sex industry land use.

What inspections may the NSW Department of Health undertake?

As with Council's Health Inspector's, Officers from the State Department of Health may make inspections of sex industry premises from time to time to ensure that the sexual health guidelines issued by the state are being followed.

What happens with unauthorised uses?

Council has the power to enforce the Environmental Planning and Assessment Act 1998 in order to ensure that brothels do not operate without consent from Council. This act allows Council to take legal action against operators of brothels if they continue to operate without consent.

In addition to the powers in the Environmental Planning and Assessment Act 1998, Council also has the ability to make an application to the Land and Environment Court for a premises not to be used as a brothel, pursuant to Section 17 of the Disorderly Houses Act 1995.

4.5 Making a Complaint About Sex Industry Premises

Council's Duty Building Officer (ph 9288-5000) should be contacted if you have a complaint concerning an unauthorised sex industry premises, or if you have a complaint about the operation of an authorised premises. If a Sex Industry Premises does not have consent to operate the brothel Council may investigate the matter and may take action to ensure that the use is ceased or that it obtains the appropriate consent. If it does have consent to use the premises Council may still investigate to ensure it is operating within the conditions of the consent. If it is not operating within the conditions of consent Council may take legal action to ensure that it does.

Even if it has consent from Council and is operating within its consent, Council has the power under Section 17 of the Disorderly Houses Amendment Act 1995, to make an application to the Land and Environment Court to have the use ceased if it believes that there is suitable justification. Section 17 of the Disorderly Houses Amendment Act 1995 lists several considerations that the court must consider.

Council cannot act solely on moral objections. Many premises have conditional consent from Council, with a trial period for an initial 12 months. Resident complaints may be a major source of feedback to Council on the workability of particular Sex Industry Premises.

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The Appendices in this policy contain an extract of the Disorderly Houses Amendment Act, 1995, which sets out some criteria for complaints against Brothels, which can be considered by the court for an order to close the premises. Complaints should be directed to Councils Duty Building Officer, but may only be kept confidential if you believe that your physical safety is at risk.

Public health complaints should be addressed to the relevant Area Health Service (Central Sydney Area Health Service or the South Eastern Sydney Area Health Service). Occupational health & safety issues are matters for the Workcover Authority. Joint inspections may be carried out if necessary. Proprietors of sex industry premises should refer to the publication entitled "Health & Safety Guidelines for Brothels in NSW" jointly published by the NSW Health Department and the Workcover Authority.

PART 5: APPENDICES

5.1 Plans of Management

Plans of Management are required with all Development Applications for all types of Sex Industry Premises. Plans of Management show what management and operational arrangements, as well as other measures are taken by proposed premises to achieve the requirements of this policy.

Management Arrangements: This should include details (including contact numbers) for the proprietors of the business as well as the owners of the premises. If someone other than the proprietor is managing the business on a day to day basis on his/her behalf then the name(s) and contact details for that person should also be included. The Plan of Management should be signed by both the proprietor of the business, any manager of the business, as well as the owner of the premises.

Hours of Operation: Existing and any proposed changes to hours of operation should be noted.

Safe Sex Assurance: The Plan shall show how safe sex information and condoms, dams, etc are to be made available to all occupants of the premises.

Suggested strategies include:

- How condoms, dental dams, etc are to be supplied freely and made easily accessible.
- Posters on safe sex information be prominently placed.
- Adequate signage placed in the premises to indicate that management supports a safe sex policy.
- Provision of written material re other means of harm minimisation for both workers and clients.
- Signage on back of room doors describing cardio-pulmonary resuscitation procedures and emergency phone numbers.
- Development of a needlestick policy in the event of staff/ client injury.
- How premises to be kept in a clean, tidy and presentable condition at all times.

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Restricting Access: In this section the plan should show how it would ensure that no person under 18 years of age gains access to the premises.

Control of Antisocial or Violent Behaviour: The Plan should include what strategies are to be taken to deal with inappropriate behaviour in the establishment. Relevant qualifications of security staff should be included, to ensure that they can appropriately deal with such behaviour.

Illegal activities on the Premises: As well as clearly outlining that the sale and supply of drugs is strictly prohibited this section should also include what strategies are to be followed and how they shall be implemented to monitor that this does not happen.

An Action Plan: This provides a contractual means by which to guarantee the ongoing provision of the above. It would not be appropriate to enter into a binding contract for elements of the Plan of Management (such as cleaning services, etc) until Council adopts the Plan of Management and issues any conditions of Development Consent.

Safety and Security: Measures to ensure the safety of both staff and clients both within the premises and external of the premises must be detailed. The Plan should identify how the operator is to ensure that the workers are "safe", how they should handle clients who behave in an unacceptable manner - including reporting to police etc. Suggested strategies include:

- Management and monitoring of people entering the premises
- Monitoring use of rooms
- Maintenance of an incident book on the premises which can be accessed by the police as and when required
- The Plan of Management could include a Security Plan.

Management of Waste: The Plan should demonstrate that adequate facilities have been provided for the storage of waste. This would include a key showing different types of storage receptacles and proposed locations shown on the plans. Arrangements for the effective disposal of clinical waste must be addressed. This would include the servicing of sharps bins, as well as the disposal of other contaminated waste. Bins for contaminated waste and Sharp Safes for discarded injecting equipment should be provided in every room.

Presentation of the Premises: The strategies in this section would demonstrate a general upgrading of the condition of the premises including painting, floor coverings, furnishings, furniture (bed etc), linen and blankets, pillows etc.

Cleanliness of the Premises: In this section the applicant should demonstrate how they are proposing to keep the inside of the premises in a clean and tidy condition, ranging from general housekeeping to the laundering of beds linen. Options might include:

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- A daily cleaner
- Washing and drying facilities provided on the premises
- Engaging a commercial laundry contractor. In this case a copy of agreement should be provided as an annexure to the Plan of Management.

Liaison: It is suggested that in addition to Council officers, you liaise with S.W.O.P, the Kirketon Road Centre, the local Police and Health Workers in the preparation of the Plans of Management.

Sample Plan of Management: The following is an extract of a Plan of Management of a well run Safe House, which may be used in part as a model for a Plan of Management The premises employs at least 2 persons at all times- a 'Door Manager' and a 'Floor Manager', who as part of their duties ensure the safe and secure operation of the premises:

Management: Two staff are on duty at all times to ensure safety of clients and workers, and for the general security of the premises.

Door Manager

- The operation of a front door security gate.
- The allocation of a room for the sex worker.
- Collection of room rent from the client.
- Writing up of records known as a 'work sheet' to enhance safety and security (workers name, room allocated, time the room let, time vacated, etc).
- Seeing that both client and worker arrive and leave the premises in an orderly and quiet manner.
- Addressing any disagreements between workers and clients.
- Contacting the police if needed.
- Ensuring that if any person looks underage, they are asked to provide I.D. before entering the premises.
- In case of an emergency, ensuring the necessary authorities are contacted.
- To oversee emergency procedures, e.g. evaluation of premises .

Floor Manager

- Seeing that the worker and clients are supplied with safe sex needs .
- Ensuring that rooms are left presentable after use. This includes changing linen as required, emptying waste bins, etc.
- Maintaining coffee, tea, milk supplies for workers.
- Keeping walkways clean and accessible.
- Maintaining 'time out' areas such as kitchens, and bathrooms throughout the shift.
- Acting under instructions of the Door Manager in times of emergencies.
- Working in conjunction with the Door Manager to see that all practices are carried out, to ensure health, safety and security standards are met.

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Security

- Two staff must be on the premises at all times to ensure security. Two persons are better able to control situations such as robbery or violence, and to summon the police.
- An electronic security gate at the main entrance is essential to security. It allows monitoring of all who enter or leave the premises, to the benefit of both sex workers and clients. (This has been shown to allow management to intervene in disagreements between parties, to discourage theft, and is a great deterrent to acts of abuse or violence on workers, and business hold ups).
- An intercom system to each room ensures that the worker can alert the front desk to any problem that may arise with a client.
- Police contact details are kept at the front desk.
- Good lighting of the front door and passage ways is maintained.

Education

- A notice board in the main area displays notices from: the police on current investigations; current referral information for Sex Workers to sexual health clinics, needle exchange, SWOP and other relevant agencies.
- A space is provided for agencies to carry out educational or other meetings . with sex workers.
- A display space is available for information for sex workers and clients, such as HIV, STDs, etc.
- Client education material is displayed in the bedrooms.
- Staff training is held for harm minimisation (which may include self defence, street awareness, etc), needle stick injury, etc.
- The requirement for staff to attend training sessions on CPR, or other necessary sessions run by SWOP or the Kirketon Road Centre.

Health and Safety

- Good Lighting is provided in all rooms for checking clients.
- Immunisation of staff has been carried out for Hepatitis A & B and vaccination for Tetanus.
- Safe Sex supplies are provided by management free of charge, and other safe sex equipment required.
- Management is to liaise with the relevant authorities to ensure that necessary health and safety standards are adhered to, and ensure that updated information on safety issues is made available (e.g. on new strains of STDs).
- Spot cleaning is to be done where necessary to maintain hygiene.
- Fire extinguishers are accessible .

SEX INDUSTRY POLICY

Restricted Access

- Proof of Age shall be requested of sex workers or clients if Management cannot determine their age. Otherwise access is to be denied.
- Workers are not permitted to bring friends into the premises without permission of the Management.

Time Out Space

- Space is provided for workers to come off the street to rest.
- A Kitchen, Bathroom, Toilets and Showers, and a lounge area are provided for workers. They are permitted to take short naps in bedrooms not in use.

Presentation and Maintenance of Premises

- It is the responsibility of the Floor Manager to ensure that: bedrooms are checked after each client; general areas are clean and presentable, with attention to the kitchen, bathrooms, and toilets as a priority. General maintenance of the property is attended to when required.

Illegal Activities on Premises

- Management shall not tolerate any illegal activities and may contact the police if necessary. Signs are displayed to address this issue.

Waste Disposal

- A Contract Waste Service shall collect clinical and general waste nightly.

Cleaning of Premises

- The Management shall be responsible for the cleaning of the premises during business hours. After business hours, a contract cleaner is employed for 4 hours per day.

Emergency Procedures in Case of Fire or Disaster

- The door Manager is responsible for opening the security door and contacting emergency services. The floor Manager is responsible for opening other emergency exits and for directing a safe passage out.

SEX INDUSTRY POLICY

5.2 Extract from the Disorderly Houses Amendment Act 1995

Section 17 - Application to Land And Environment Court For Premises Not To Be Used As A Brothel

- (1) The Land and Environment Court may, on application by a local council, make an order that an owner or occupier of a premises that are a brothel and are situated within the area of the council is not to use or allow the use of that premises for the purpose of a brothel.
- (2) The local council must not make an application in relation to a brothel unless it is satisfied that it has received sufficient complaints about the brothel to warrant making of the application.
- (3) The complaints must have been made by:
 - (a) residents of the area in which the brothel is situated who live in the vicinity of the brothel; or
 - (b) residents of the area in which the brothel is situated who use, or whose children use, facilities in the vicinity of the brothel; or
 - (c) occupiers of premises that are situated in the area in which the brothel is situated and in the vicinity of the brothel.
- (4) The application must state the reasons why the local council is of the opinion that the operation of the brothel should cease on one or more of the considerations referred to in subsection (5) (a), (b), (c), (d), (e) or (f).
- (5) In making an order under this section the Land and Environment Court is to take into consideration only the following:
 - (a) whether the brothel is operating near or within view of a church, hospital, school or any place regularly frequented by children for recreational or cultural activities;
 - (b) whether the operation of the brothel causes a disturbance in the neighbourhood when taking into account other brothels operating in the neighbourhood or other land use within the neighbourhood involving similar hours of operation and creating similar amounts of noise and vehicular and pedestrian traffic;
 - (c) whether sufficient off street parking has been provided if appropriate in the circumstances;
 - (d) whether suitable access has been provided to the brothel;
 - (e) whether the operation of the brothel causes a disturbance in the neighbourhood because of its size and the number of people working in it;
 - (f) whether the operation of the brothel interferes with the amenity of the neighbourhood;
 - (g) any other matter that the Land and Environment Court considers is relevant.
- (6) This section extends to premises within an area that is not a local government area and in the case reference to a local council is to be read as a reference to the prescribed authority for the area.

SEX INDUSTRY POLICY

- (7) In this section, church, hospital and school have the same meanings as in the Summary Offences Act 1988.

5.3 Other Organisations You May Wish to Contact

AIDS Council of NSW (ACON): ACON is a community based organisation that provides HIV / AIDS information and services. They can be contacted on 9206-2000.

Sex Workers Outreach Project (SWOP): SWOP is a community based sex worker group partially funded by the government that provides information support and referral on matters relating to the sex industry. They can be contacted on 9319 4866.

Sydney Sexual Health Centre: This group is part of the NSW Department of Health and provides assistance with all matters relating to sexual health. They can be contacted on 9382 7440.

Workcover Authority: Workcover is part of the state government and provides information on work conditions and standards. They can be contacted on 9370 5000

Ombudsman: The Ombudsman investigates complaints about the administrative conduct of the NSW public service including local government and police. They can be contacted on 9286 1000.

Independent Commission Against Corruption: The ICAC investigates corruption in the NSW public sector and can be contacted on 9318 5999.

Kirketon Road Centre: This is a branch of the state government inner city sexual health services. They provide sexual health services and can be contacted on 9360 2766.

ITEM 2. THE AMALGAMATED CITY OF SYDNEY - FUTURE PLANNING POLICY DIRECTIONS RESPONDING TO THE BOUNDARY CHANGES (S016796)

Moved by the Chair (the Lord Mayor), seconded by Councillor Marsden -

That arising from consideration of a report by the Manager Strategic Planning to the Extraordinary Meeting of Council on 23 June 2003, on The Amalgamated City of Sydney - Future Planning Policy Directions Responding to the Boundary Changes, it be resolved that Council -

- (A) apply the Central Sydney Local Environmental Plan 1996, the City of Sydney Heritage Local Environmental Plan 2000 and Draft City of Sydney Local Environmental Plan 2002 to the transfer areas received from South Sydney and Leichhardt Councils, and in particular apply the aims, objectives and principles of design excellence contained in those instruments;
- (B) apply the provisions of Section 6.1 of Central Sydney Development Control Plan 1996 entitled "Amenity for Residential Buildings and Serviced Apartments" to the transfer areas received from South Sydney and Leichhardt Councils;
- (C) review and consolidate the intended planning controls in the former South Sydney and Leichhardt Council areas, which now form part of the City of Sydney Local Government Area.

Carried unanimously.

ITEM 3. EASTERN DISTRIBUTOR - PROPOSED ROAD RECLASSIFICATION. (S020216)

Moved by the Chair (the Lord Mayor), seconded by Councillor Farr-Jones -

That arising from consideration of a report by the Senior Contract Coordinator, Contracts and Asset Management Unit to the Extraordinary Meeting of Council on 23 June 2003, on Eastern Distributor - Proposed Road Reclassification, it be resolved that:

- (A) the reclassification of various roads as proposed by the Roads and Traffic Authority (RTA) be approved and that the RTA be advised accordingly;
- (B) the RTA be advised accordingly so that the special grant of \$293,000 (excluding GST) can be obtained;
- (C) the special grant of \$293,000 (excluding GST) be accepted;
- (D) the City's Capital Works Program for 2003/2004 be increased by \$293,000 and the upgrading of sections of Crown Street, Bourke Street and Campbell Street be added to the programmed works.

Carried unanimously.

Closed Meeting

At 6.15pm the Extraordinary Meeting of Council resolved -

That, due notice of the intention to close the meeting having been given, the meeting be closed in accordance with the provisions of Section 10A(2)(d)(i) of the Local Government Act 1993 to discuss Items 4, 5 and 6 on the agenda as these matters comprised discussion of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the persons who supplied it;

and it was further resolved that the meeting be closed for these items on the basis that discussion of these matters in open session would, on balance, be contrary to the public interest, specifically, there is a need to preserve confidentiality having regard to the subject matter and the circumstances of communications.

Items 4, 5 and 6 were then dealt with by the Extraordinary Meeting of Council while the meeting was closed to the public.

ITEM 4. PURCHASE OF ONE LARGE ROAD SWEEPING MACHINE – APPROVAL TO ACCEPT TENDER (S024807)

Moved by the Chair (the Lord Mayor), seconded by Councillor Ho -

That arising from consideration of a report by the Manager, Cleansing and Waste to the Extraordinary Meeting of Council on 23 June 2003, on Purchase of One Large Road Sweeping Machine - Approval to Accept Tender, it be resolved that:

- (A) Council accept the tender submitted by MacDonald Johnston Engineering Company Pty Ltd for the supply and delivery of one ex-demonstration 770 Cyclone regenerative air road sweeper for the value stipulated in paragraph 5 of the subject report;
- (B) authority be delegated to the General Manager to negotiate and, following consultation with the Lord Mayor, to enter into a contract for the supply of one road sweeping machine;
- (C) Council's attorney be authorised to execute all necessary documentation.

Carried unanimously.

ITEM 5. PURCHASE OF ONE FOOTWAY SWEEPING MACHINE – APPROVAL TO ACCEPT TENDER (S024806)

Moved by Councillor Greiner, seconded by Councillor Coulton -

That arising from consideration of a report by the Manager, Cleansing and Waste to the Extraordinary Meeting of Council on 23 June 2003, on Purchase of One Footway Sweeping Machine - Approval to Accept Tender, it be resolved that:

- (A) Council accept the tender submitted by MacDonald Johnston Engineering Company Pty Ltd for the supply and delivery of one Compact 40 footway sweeper for the value stipulated in paragraph 5 of the subject report:
- (B) authority be delegated to the General Manager to negotiate and, after consultation with the Lord Mayor, to enter into a contract for the supply of one road sweeper;
- (C) Council's attorney be authorised to execute all necessary documentation.

Carried unanimously.

ITEM 6. PURCHASE OF ONE 6 CUBIC METRE GARBAGE COMPACTOR – APPROVAL TO ACCEPT TENDER (S024808)

Moved by Councillor Farr-Jones, seconded by Councillor Marsden -

That arising from consideration of a report by the Manager, Cleansing and Waste to the Extraordinary Meeting of Council on 23 June 2003, on Purchase of one 6 Cubic Metre Garbage compactor - Approval to Accept Tender, it be resolved that:

- (A) Council accept the tender submitted by The Truck Centre, a division of Stillwell Trucks Pty Ltd, for the supply and delivery of one Garwood 6 cubic metre compactor fitted to a Mitsubishi Canter for the value stipulated in paragraph 5 of the subject report:
- (B) authority be delegated to the General Manager to negotiate and, after consultation with the Lord Mayor, to enter into a contract for the supply of one 6 cubic metre garbage compactor;
- (C) Council's attorney be authorised to execute all necessary documentation.

Carried unanimously.

ITEM 7. KINGS CROSS NEIGHBOURHOOD SERVICE CENTRE - BUDGET REVIEW

Note - no report was circulated and this matter was not discussed at the Extraordinary Meeting of Council.

Monday 23 June 2003

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At 6.20pm the meeting concluded.

Chairman of a meeting of the Council of the City
of Sydney held on 30 June 2003 at which
meeting the signature herein was subscribed.