



New South Wales

Local Communities (Brothels—Flexible Zoning) Bill 2001

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to allow councils to establish brothel-free zones in local government areas. An occupier of premises in a brothel-free zone who uses the premises or allows the premises to be used for the purpose of a brothel will be guilty of an offence.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 defines certain words and expressions used in the proposed Act. In particular, *brothel* is defined as premises used for the purposes of prostitution, including premises used by only one prostitute for the purposes of prostitution.

Part 2 Establishment of brothel-free zone

Clause 4 allows a council to prepare a proposal for the establishment of a brothel-free zone, either on its own motion or on application by specified persons. The brothel-free zone may comprise the whole or any part of the area of the council.

Clause 5 requires the council to give public notice of the proposal to establish a brothel-free zone and to consider any representations and submissions made in relation to the proposal.

Clause 6 allows the council to adopt a proposal to establish a brothel-free zone, after complying with the procedures set out in clauses 4 and 5. The council is required to give public notice of the declaration of the brothel-free zone.

Clause 7 provides that a brothel-free zone operates from the date specified by the council, but no earlier than 30 days after the date public notice is given of the establishment of the brothel-free zone.

Clause 8 allows a council to cancel the operation of a brothel-free zone.

Clause 9 requires the council to undertake public consultation before changing the boundaries of a brothel-free zone.

Part 3 Enforcement

Clause 10 makes it an offence for an occupier of premises in a brothel-free zone to use the premises or allow the premises to be used for the purpose of a brothel. The maximum penalty for the offence is 100 penalty units (currently \$11,000).

Clause 11 allows a police officer to obtain a search warrant in respect of premises in a brothel-free zone if he or she has reasonable grounds for believing that they are being used for the purpose of a brothel.

Clause 12 provides for the summary disposal of proceedings for an offence under the proposed Act by a Local Court or the Land and Environment Court.

Part 4 Miscellaneous

Clause 13 provides that the proposed Act has effect despite the provisions of any other Act or law. In particular, the brothel-free zone has effect despite the provisions of any environmental planning instrument or development consent.

Clause 14 provides that compensation is not payable by a council or the Crown for the operation of the proposed Act or anything done under the proposed Act.

Clause 15 contains an amendment to the *Search Warrants Act 1985* that is required as a consequence of clause 11.



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New South Wales

Local Communities (Brothels—Flexible Zoning) Bill 2001

No. , 2001

A Bill for

An Act to provide for the establishment of brothel-free zones in local government areas; and for other purposes.

Clause 1 Local Communities (Brothels—Flexible Zoning) Bill 2001

Part 1 Preliminary

The Legislature of New South Wales enacts: 1

Part 1 Preliminary 2

1 Name of Act 3

This Act is the *Local Communities (Brothels—Flexible Zoning) Act 2001*. 4
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2 Commencement 6

This Act commences on the date of assent. 7

3 Definitions 8

In this Act: 9

area, in relation to a council, means the area of the council within the meaning of the *Local Government Act 1993*. 10
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brothel means premises used for the purposes of prostitution, including premises used by only one prostitute for the purposes of prostitution. 12
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brothel-free zone means a zone operating under this Act as a brothel-free zone. 15
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council has the meaning given by the *Local Government Act 1993*. 17

premises includes a building and any part of a building. 18

Part 2 Establishment of brothel-free zone	1
4 Proposal for establishment of brothel-free zone	2
(1) A council may prepare a proposal to establish a brothel-free zone in the area of the council, either on its own motion or on the application of one or more of the following people:	3
(a) a person who the council is satisfied is a representative of a bona fide community group active in the area,	4
(b) a police officer,	5
(c) a person who the council is satisfied lives or works in the area.	6
(2) The application must be in a form approved by the council.	7
(3) The proposed brothel-free zone may comprise the whole or any part of the area of the council.	8
5 Public consultation on proposal to establish brothel-free zone	9
(1) After preparing a proposal under section 4, the council may, by notice published in a newspaper circulating in the area as a whole or in a part of the area that includes the zone concerned:	10
(a) declare that it proposes to establish a brothel-free zone, indicating the location of the zone, and	11
(b) state the place at which, the dates on which and the times during which, a copy of the proposal may be inspected, and	12
(c) invite representations and objections from persons and groups within the area, indicating that any representations or objections by them must be made within 14 days after the date on which the notice is published.	13
(2) The council must consider all representations and objections that are duly made to it under this section.	14
6 Establishment of brothel-free zone	15
(1) After complying with the procedures set out in sections 4 and 5, the council may, by resolution, adopt a proposal (with or without modifications) to establish a brothel-free zone.	16
(2) The resolution has the effect of establishing the brothel-free zone in accordance with the terms of the resolution.	17

(3) After making the resolution, the council must, by notice published in a newspaper circulating in the area as a whole or in a part of the area that includes the zone concerned, declare that a brothel-free zone has been established.	1 2 3 4
7 Operation of brothel-free zone	5
(1) A brothel-free zone operates, in accordance with the terms of the resolution establishing the zone, on and from a date specified in the resolution as being the date from which the zone operates.	6 7 8
(2) However, a brothel-free zone cannot operate earlier than 30 days after the first publication of the relevant notice under section 6.	9 10
8 Cancellation of brothel-free zone	11
The council may, at the request of any person or body or of its own motion, cancel the operation of a brothel-free zone by publishing notice of the cancellation in a newspaper circulating in the area as a whole or in a part of the area that includes the zone concerned.	12 13 14 15
9 Change to boundaries of brothel-free zone	16
(1) After establishing a brothel-free zone, the council cannot change the boundaries of the brothel-free zone unless the council prepares a proposal to change the boundaries of the zone.	17 18 19
(2) Sections 4, 5 and 6 apply in respect of such a proposal as if it were a proposal to establish a brothel-free zone.	20 21
(3) Section 7 applies in respect of any resolution that adopts such a proposal.	22 23

Part 3 Enforcement	1
10 Offence to use premises as brothel in brothel-free zone	2
(1) An occupier of premises in a brothel-free zone must not:	3
(a) use the premises for the purpose of a brothel, or	4
(b) allow the premises to be used for the purpose of a brothel.	5
Maximum penalty: 100 penalty units.	6
(2) In this section:	7
<i>occupier</i> of premises includes a person having management or control of the premises.	8 9
11 Issue of search warrant	10
(1) A police officer may apply to an authorised justice for a search warrant if the police officer has reasonable grounds for believing that premises in a brothel-free zone are being used for the purpose of a brothel.	11 12 13
(2) An authorised justice to whom an application is made under this section may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising any police officer:	14 15 16
(a) to enter and search the premises, and	17
(b) to seize any article that may be evidence that the premises are being used for the purpose of a brothel.	18 19
(3) Part 3 of the <i>Search Warrants Act 1985</i> applies to a search warrant issued under this section.	20 21
(4) In this section:	22
<i>authorised justice</i> has the meaning given by the <i>Search Warrants Act 1985</i> .	23 24
12 Proceedings for offences	25
Proceedings for an offence under this Act may be dealt with:	26
(a) summarily before a Local Court constituted by a Magistrate sitting alone, or	27 28
(b) summarily before the Land and Environment Court.	29

Part 4 Miscellaneous

1

13 Zone has effect despite other laws

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- (1) This Act has effect despite the provisions of any other Act or law. 3
- (2) In particular, a brothel-free zone operates in respect of all premises in the zone despite the provisions of the following: 4
5
 - (a) any environmental planning instrument made under the *Environmental Planning and Assessment Act 1979* (whether before or after the commencement of this Act) that applies to the area that includes the zone, 6
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8
9
 - (b) any development consent granted under the *Environmental Planning and Assessment Act 1979* (whether before or after the commencement of this Act). 10
11
12
- (3) This Act does not affect the application of the *Disorderly Houses Act 1943* to any premises within a brothel-free zone. 13
14
- (4) However, this Act applies in respect of premises in a brothel-free zone that are used as a brothel despite section 17 of the *Disorderly Houses Act 1943*. 15
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14 No compensation payable

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- (1) Compensation is not payable by a council or the Crown for any loss suffered as a result of the operation of this Act or anything done under this Act. 19
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- (2) In this section: 22
 - compensation* includes damages or any other form of monetary compensation. 23
24
 - the Crown* means the Crown within the meaning of the *Crown Proceedings Act 1988*, and includes any officer, employee or agent of the Crown. 25
26
27

15 Amendment of Search Warrants Act 1985 No 37

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The *Search Warrants Act 1985* is amended by inserting in alphabetical order of Acts in the definition of *search warrant* in section 10:

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section 11 of the *Local Communities (Brothels—Flexible Zoning) Act 2001*,

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