

INQUIRY INTO THE REGULATION OF BROTHELS

Organisation: Tamworth Regional Council
Name: Mr Peter Thompson
Position: Director, Planning and Compliance
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Mr Alister Henskens SC, MP
The Chair, Legislative Assembly
Select Committee on the Regulation of Brothels
Parliament of NSW
Macquarie Street
SYDNEY NSW 2000

Dear Mr Henskens

INQUIRY INTO THE REGULATION OF BROTHELS - SUBMISSION

Ref: km/PT/SF1390 – 109938/2015

Your Ref: LAC15/148

I refer to your letter dated 21 July 2015 calling for submissions in relation to the Select Committee's Inquiry into the Regulation of Brothels in New South Wales.

The following comments are submitted for your consideration in relation to the Tamworth Regional Council local government area.

Local controls relating to the approval of brothels are contained within the *Tamworth Regional Local Environmental Plan 2010 (TRLEP 2010)*. "Sex services premises" are permissible in the IN1 Industrial zone. The relevant *LEP Standard Instrument* definitions are:

- **sex services premises** means a brothel, but does not include home occupation (sex services);
- **brothel** means a brothel within the meaning of the *Restricted Premises Act 1943*, other than premises used or likely to be used for the purposes of prostitution by no more than one prostitute;
- **home occupation (sex services)** means the provision of sex services in a dwelling that is a brothel, or in a building that is a brothel and is ancillary to such a dwelling, by no more than 2 permanent residents of the dwelling and that does not involve:
 - the employment of persons other than those residents, or
 - interference with the amenity of the neighbourhood by reason of the emission of noise, traffic generation or otherwise, or
 - the exhibition of any signage, or
 - the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include a home business or sex services premises.

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Legal Brothels

The only approved brothel in the Tamworth area is located within a former dwelling located in the IN1 Industrial zone. Conditions of the development consent restrict the number of sex workers to four, require parking spaces for 10 vehicles, designate the hours of operation, and require disabled access and facilities.

In relation to the approved brothel, regular public compliance inspections have been conducted. The inspections covered: cleanliness, waste removal, condition of linen, security, provision of condoms, and compliance with DA conditions.

There are no known brothels that would come under the definition of “home occupation” (sex services)”. In the TRLEP 2010 these are only permitted in the commercial zones and by definition in a dwelling.

Illegal brothels

One of the most common complaints received by Council regarding unauthorised brothels/prostitution relates to alleged use of motel rooms. Whilst it is acknowledged that some prostitutes may be working from motels, any action by Council to address these complaints is constrained by the level of evidence required in order to take action, the amount of Council resources needed for such action and the difficulties faced by the motel owners who may not be aware of these activities on their premises.

Council has the ability to take proceedings in the Land & Environment Court to stop premises from being used as a brothel pursuant to the Restricted Premises Act 1943. However, there is a significant restriction in this legislation; in particular Section 17, that prevents Council from making an application to the Court “unless it is satisfied that it has received sufficient complaints about the brothel to warrant the making of the application”.

Section 2A also says: “For the purposes of subsection (2), one complaint may be sufficient to warrant the making of an application in the case of a brothel used or likely to be used for the purposes of prostitution by 2 or more prostitutes.”

The legislation goes on in subsection 3 to state that complaints must have been made by:

- (a) *residents of the area in which the brothel is situated and 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.*

For Council to gather evidence and appropriately police this problem within all the towns and villages within its jurisdiction there would need to be allocation of additional public money for additional extra staff, training and equipment. The strength of Council’s enforcement actions relies on the validity of resident complaints and on moteliere confirming the presence of a person using a motel room for the purpose of prostitution.

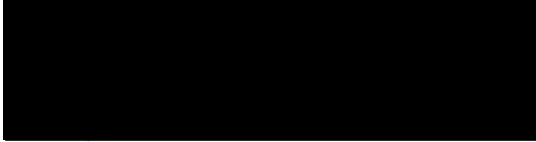
It would seem unreasonable and discriminatory for motel managers to have to enquire from their prospective customers as to whether they intend to be providing sexual services to clients from the motel. Even if they did question their motel guests in this way, it is unlikely that somebody who is prepared to use a room illegally would be forthcoming about their activities.

A further complication with this matter is the fact that, should Council become aware that a particular motel is being used on a particular day by a prostitute to entertain clients, it is highly likely that the person concerned may simply move to a different motel. The advertisements that appear in the local newspaper all have mobile telephone numbers and could be associated with the use of any motel, private residence, or indeed caravan or motor home in the area.

Council’s submission is that brothels should remain permissible uses within the appropriate zoning and locations, within a regulated environment where public health compliance checks can occur.

The unregulated use of motel rooms, while not occurring on a large scale in Council's area, is an issue that requires more resources and enforcement power for both Council and Police to address the public health and safety risks that arise when such activities occur outside a regulatory framework.

Yours faithfully



Peter Thompson
Director, Planning and Compliance

Contact: David Lewis (



17 August 2015

