

**Submission
No 63**

INQUIRY INTO THE REGULATION OF BROTHELS

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NSW Legislative Assembly Inquiry into the Regulation of Brothels

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City of Sydney Submission

Executive Summary

The City of Sydney submission to the NSW Legislative Assembly Inquiry into the Regulation of Brothels contains a number of areas of discussion. These are detailed by section:

1. Development controls in the City of Sydney
2. Compliance of brothels in the City of Sydney
3. Health and safety of workers in NSW
4. Reservations regarding a licencing authority

Introduction

NSW is internationally lauded for its harm minimisation model that regulates brothels through local government planning and health controls, and is considered to be one of the least discriminatory and most effective systems in protecting sex worker health and human rights.

The City's current Local Environment Plan and Development Controls successfully manage sex industry premises as evidenced by high compliance and minimal amenity impacts. The City works closely with health services, local Police and non-government organisations to address the health and safety of workers in the sex industry in the local government area.

Although it is recognised that the perception of amenity impacts for sex industry premises is considered high, once a development is operational, the City's experience demonstrates minimal impacts, with premises often operating without attracting any complaints or concerns.

The introduction of a Brothel Licensing Authority in NSW raises concerns including the increased cost and resources on local councils and businesses, as well as an increase in unauthorised or unlicensed premises, operating without any consent conditions that manage safety, wellbeing and amenity.

The City welcomes the opportunity for local councils across NSW to adopt clear and concise development controls to effectively manage sex industry premises in their local government areas.

1. Development controls in the City of Sydney

Adult entertainment and sex industry premises have a long history within the City of Sydney Local Government Area and have become an established feature in some areas. Premises are required to operate in a discrete manner and seek to comply with Council's conditions of development consent. Whilst the impact of individual premises can vary in relation to their nature and scale, the accumulation of premises may exacerbate any negative amenity impacts. It is therefore important that land use planning controls seek to reduce any negative impacts whilst allowing the development of adult entertainment and sex industry premises in suitable locations, and of an appropriate scale and operation.

Council's responsibilities in relation to adult entertainment and sex industry premises are primarily concerned with land use planning under the Environmental Planning and Assessment Act 1979 and the operation of premises in accordance with the Local Government Act 1993. The Council inspects adult entertainment and sex industry premises to determine compliance with conditions of development consent. The Council also investigates complaints about, and may commence legal proceedings against, premises operating without development consent or in non-compliance with conditions of consent.

The City's Development Controls require sex industry premises to submit clear plans of management that include details regarding premises security, CCTV, safety, waste management and crime prevention. All premises must include separate and secure facilities for workers. All working rooms in City of Sydney brothels must have duress alarms and intercoms so that staff can contact reception in case of any incident or concern. All plans of management must demonstrate how health services and information will be promoted to staff.

2. Compliance of brothels in the City of Sydney

Sex services premises have potential risks to public health and residential amenity when not appropriately regulated, however with proper development controls and an adequate plan of management positive health outcomes with reduced amenity can occur. In 2012 an external consultancy was employed by the City to create a prioritisation framework for all Health and Building functions based on a comprehensive risk assessment framework. From this review sex premises were classified as a moderate risk to council. Whilst proactive inspections of sex premises were suspended following the review the Health and Building unit have continued to inspect businesses when a complaint has been made. It is noted that the City rarely receive complaints concerning approved sex premises, however do receive and investigate complaints concerning such businesses operating illegally with council approval.

3. Health and safety of workers

The operators of the sex industry premises in the City must provide reasonable access for authorised staff from health services and other agencies to support the health and safety of staff and visitors to the premises. Evidence of access arrangements for the attendance of health service providers is identified in the premise's Plan of Management. City Officers conduct inspections to assess compliance with health standards and ensure conditions of development consent are met.

It is also noted that 'The Work Health and Safety Act 2011' allows authorised representatives of WorkCover NSW to enter and inspect premises for compliance with occupational health and safety issues.

The City has ensured that sex workers from different language groups have access to sexual health information in different languages by providing grants to non-government agencies to produce resources. Furthermore, grants have been issued to provide legal advice and support to sex workers in the City. Working collaboratively with a range of stakeholders ensures that the health and safety of sex workers in the City are prioritised.

4. Reservations regarding a licencing authority

The NSW Government's legislative reforms of 1979 (Environmental Planning Assessment Act) and 1995 (Disorderly Houses Amendment Act) have improved human rights by legitimising businesses leading to a reduction in usage of the criminal justice system, and enhancing the health and safety of sex workers. During this time the NSW's sex industry has not increased in size or visibility since decriminalisation.

'The Sex Industry in New South Wales Report' (2012) studied 200 sex workers across Australia and found NSW's sex workers to be the most accessible by health services. Furthermore the report found that since 1995 (when prostitution was decriminalised in NSW) sex workers have had a sexually transmitted infection rate as low as the general population.

Licensing models implemented in Victoria and Queensland have not produced the health and safety outcomes intended, with research suggesting that only a minority of premises operate within the current licensing schemes. Due to the majority of premises not being monitored or regulated, vulnerability to exploitative practices and trafficking can be increased. Such crimes are investigated at a federal level and would be best enhanced through improved communications between relevant stakeholders such as Federal Police and Immigration.

The role of local government and the proposed licensing authority requires clarification. Operationally, an introduced licensing system would place additional resource requirements on local government compliance teams. As sex industry premises are deemed a low risk development, the introduction of additional compliance inspections would create an unnecessary and costly burden on the City's resources.

Local governments are best placed to assess what is appropriate for their local government areas in terms of the location of a sex industry premises. While some councils restrict brothels to industrial areas, other councils like the City have successfully integrated sex industry premises into commercial and mixed use zones.

Conclusion

The City of Sydney supports the current model of sex industry regulation consisting of decriminalisation and local government planning provisions. The City does not support a proposed licensing model due to concerns relating to non-compliance, cost recovery and the potential impacts on amenity resulting from the potential operation of unlicensed premises.

The City advocates for other councils to introduce Development Control Plans to address the safety and amenity of sex industry premises and workers by introducing robust plans of management attached as a condition of consent for each development. It is through this strategy that the City has successfully managed 49 authorised brothels in the Sydney local government area (which is the largest number of authorised brothels in any local government area in NSW).