

D5-Sex Services Premises

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D5-Sex Services Premises

I Introduction

This Part contains objectives and controls to assist in the assessment of restricted premises and sex services premises, and to ensure that these premises are well located, designed and managed to avoid adverse impacts on the surrounding area and maintain high levels of amenity (both internal and external).

The controls in this Part are designed to ensure that sex services premises are operated in appropriate locations so that they do not give offence to the community or result in a loss of amenity for residents.

This Part of the DCP should be read in conjunction with:

Part A - Introduction and Part B - General Controls

It is also recommended that you refer to the NSW Health Department's *Health and Hygiene Guidelines for Brothels and Adult Services* http://www.workcover.nsw.gov.au/formspublications/publications/Documents/brothels_health_safety_guidelines_English_0120.pdf

Note: *In addition to KLEP 2012, the Restricted Premises Act 1943 provides the statutory framework for the control of sex services premises and restricted premises in NSW.*

2 General Matters for Consideration

Clause 6.7 - Location of sex services premises of KLEP 2012 provides for a reasonable separation between sex services premises, other land uses (residential and public recreation) and places regularly frequented by children.

The purpose of this clause is to minimise land use conflicts and adverse amenity impacts arising from the location and operation of these premises and must be addressed when submitting a Development Application.

3 Consents

In the event Council determines to grant consent for a sex services premises use, Council will in specific circumstances:

- (a) Impose conditions relating to hours of operation;
- (b) Limit the initial approval to six (6) months in order to fully assess the impact of the development on the local community and to monitor compliance with conditions of development consent. After this initial period, the approval, including the permitted hours of operation will be reviewed by Council;
- (c) Restrict persons engaged in the business to be no less than eighteen (18) years of age;
- (d) Require regular reports from the local police that the premises are being operated in a satisfactory matter;
- (e) Where consent is granted, a specified operator will be nominated on the consent. Should the operator change, Council must be notified.

If a change in the number of sex workers, hours of operation, signage, or any alterations to the building are proposed, you should consult Council who will advise whether a new Development Application is required.

4 General Objectives

The below objectives and controls will be used by Council in addition to those identified in KLEP 2012, to appropriately regulate sex services premises so that they do not cause offence in the wider community or result in adverse environmental impacts.

4.1 Location of premises

Objective

- (a) Ensure sex service premises are sensitively located so that they do not cause offence to the community at large or any adverse environmental impacts.

Controls

- (1) Sex services premises must not be located near or within view of a church, hospital, school, community facility, public open space, or any place regularly frequented by children for recreational or cultural activities.
- (2) The operation of a sex service premises must not cause a disturbance in the neighbourhood taking into account adjacent land uses including any other sex service premises, which may be operating in the neighbourhood.
- (3) The siting of a sex services premises must be in accordance with Clause 6.7 of KLEP 2012.
- (4) Consider the impact of the premises in terms of its: proximity to a railway station entrance/exit point accessed by a footpath;
 - (i) prominence at a focal road intersection; and
 - (ii) its proximity to an existing sex service premises. Council will not permit "congregation" of sex service premises so as to form or potentially form "red light districts".

4.2 Layout of premises

Objective

- (a) Ensure that the layout of sex services premises is designed to minimise the impact and "presence" of the development in the locality.

Controls

- (1) Sex services premises must be located either one level above or below street/ground level where located within a business zone.
- (2) Premises must be designed so that there is only one (1) visible entrance to the premises. This entrance must be illuminated and access to the premises provided so that people visiting the sex services premises do not have to wait on the footpath.

4.3 Parking & access

Objectives

- (a) Ensure that any development provides adequate car parking facilities for the traffic it is likely to generate.
- (b) Ensure access to premises is not predominantly through residential areas wherever possible.

Controls

- (1) Car parking provision, layout and design is to be in accordance with the general requirements of Part B4.
- (2) Off-Street parking for sex services premises is to be at the rate of one (1) space for every 25m² of floor area.
- (3) Parking areas are to be well-lit and signposted.
- (4) The location of a proposed sex service premises is to be carefully considered so that if possible, immediate access to premises is not predominantly through a residential area.

4.4 Hours of operation

Objective

- (a) Ensure that sex service premises operate at times where they will have least impact on the community and the environment.

Control

No specific standards are proposed in relation to hours of operation. However, Council will exercise its discretion in relation to permitted hours of operation of sex services premises in the circumstances of the case, taking into consideration the nature of adjoining land uses, hours of operation / use of those premises and possible conflicts with such uses.

4.5 Size of premises

Objective

- (a) Limit the social and environmental impact of sex service uses in any locality.

Control

Sex Service premises must not contain more than six (6) separate rooms (including any room used as an office) for the purposes of prostitution. Rooms having an area exceeding 18m² will be considered as 2 rooms for the purposes of this Plan.

4.6 Noise

Objective

- (a) Minimise any noise transmission from sex service premises to adjacent and nearby properties.

Controls

The use of sex service premises shall not give rise to:

- (i) transmission of vibration to any place of different occupancy;
- (ii) 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
- (iii) an "offensive noise" as defined in the Noise Control Act, 1975.

4.7 Signage

Objective

- (a) Ensure that advertising of premises is discreet and does not cause offence to the general public.

Controls

- (1) Only one (1) discreetly located external sign will be permitted on premises having a maximum area of 0.9m². Wording must be limited to the name of the business operated. No provocative images or wording will be permitted.
- (2) Signs may be externally lit by spotlights only. Internally illuminated signs are not permitted.
- (3) No "chain" bulb or "flashing sign" type lighting on premises is permitted.

NOTE: Advertising premises specifically for purposes of prostitution is an offence under the Summary Offences Act.

4.8 Health & Safety Requirements

Objectives

- (a) Ensure sex service premises are operated in accordance with acceptable health and building standards.
- (b) Ensure sex services premises are operated in a manner, which will not assist the spread of communicable diseases.
- (c) Promote education of sex industry workers and their clients so as to minimise the risk of contracting sexually transmissible infections.
- (d) Ensure that reasonable working conditions are provided for sex industry workers.

Controls

- (1) All sex services premises must be fitted with the necessary services and facilities required for Class 5 buildings (an office building used for professional or commercial purposes) under the Building code of Australia.
- (2) All applications for sex services premises will be referred to the Police and Area Health Service for comment.
- (3) All Development Applications for sex services premises must comply with the requirements of the Public Health Act 1991 and the requirements of the NSW Health Department.

5 Information to be submitted with a Development Application for a sex services premises

Due to the often contentious nature of sex service premises, it is recommended that you talk to Council's Planning Staff prior to lodging a Development Application.

If you are lodging a Development Application for a sex services premises, the following additional information will be required:

5.1 Plans to be submitted:

- i. Location plan (showing proximity of the subject site to churches, residential properties, schools, child care centres, community facilities, hospitals and public transport access points);
- ii. Site plan and floor plan including the use of each room in the subject property;
- iii. Entrances to and exits from the subject site. Location, number and layout of carparking spaces;
- iv. Advertising signs including details of size, number and colour, illumination and content;
- v. Details of existing and proposed external lighting;
- vi. Details of all external finishes, including colours, textures and window treatments.

5.2 Information to be provided with the Development Application is to include:

- i. Number of employees;
- ii. Hours of operation of the premises;
- iii. Number of rooms in the premises to be used for the service.
- iv. Name of the operator of the proposed service

A written statement is to be submitted with the application demonstrating how the proposal complies with Council's Planning requirements as well as the health and building standards.