

SECTION 17 – SEX SERVICES PREMISES AND RESTRICTED PREMISES

Overview

This section is to provide planning controls for the determination of development applications involving Sex Services Premises and Restricted Premises within Muswellbrook Shire.

To protect community amenity, welfare and interest, this section aims to ensure that such operations comply with relevant health standards and ensure the security and well being of workers.

Council welfare agencies, health agencies, the Police and the community as a whole have an interactive role and interest in administering this section of the Development Control Plan.

This Section contains the following sub-sections:-

- 17.1 – Location
- 17.2 – Carparking
- 17.3 – Signage
- 17.4 – Health and Building Requirements

In preparing an application for Sex Services Premises or Restricted Premises to be lodged with Council, it is strongly recommended that in addition to the required Statement of Environmental Effects to be lodged, that a Draft Plan of Management be prepared to advise on the detailed measures to be employed in operating the premises. This will ensure that Council is able to fully consider the potential impacts of the proposal with reference to operational standards to be employed. The draft Plan of Management should be prepared to address all of the issues within this Section of the DCP.

Aims

- a) provide a legal framework to regulate Services Premises and Restricted Premises, both for the Sex Industry and the Community;
- b) Operation in accordance with the consent of Council;
- c) Locating the Services Premises and Restricted Premises and ensuring that such activities are at a suitable distance from a church, school, hospital, community facility or any premises or thoroughfare frequented by young people;
- d) Ensuring that Sex Services Premises and Restricted Premises do not disrupt the amenity of the neighbourhood or locality;
- e) Ensuring that the appearance of Services Premises and Restricted Premises are discrete and compatible with adjoining owners;
- f) Ensuring that all signage is discrete and in keeping with the streetscape;
- g) Ensuring that adequate carparking is provided for staff and clients;
- h) Ensuring that Services Premises and Restricted Premises integrate with adjoining land uses and do not create a “red light district”;
- i) Maintenance of hygiene and safe sex practices;
- j) Prevention of under age prostitution;
- k) Public Safety and security, inclusive of Sex Industry Workers;
- l) Access to public transport.

17.1 Environment

17.1.1 Location

Services Premises and Restricted Premises are only permissible within those zones identified within the Muswellbrook LEP.

Objectives

- a) To locate sex services premises and restricted premises where they are least likely to offend

Controls

- (i) Sex services premises are not be permitted in shop front premises.
- (ii) Access to or exit from a Services Premises and Restricted Premises shall not be located in close visual or physical proximity to the entry of a premises used as a dwelling house.
- (iii) Access to or exit from a Sex Services Premises and Restricted Premises shall not be near or within view from a church, community facility, transport terminal or stop, school, pedestrian thoroughfare or any place regularly frequented by children.
- (iv) Council will generally not grant development consent to a sex services premises having more than five (5) rooms where sex services are provided at any one time.

17.1.2 External Appearance

Objectives

- a) To ensure that sex services premises and restricted premises are discreetly integrated into the surrounding streetscape.

Controls

- (i) The entrance, exit and external appearance of the premises should be well lit but not to the extent where it becomes a prominent feature in the streetscape.
- (ii) Sex Services Premises shall be designed to be compatible with the built form of adjoining premises.
- (iii) 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).
- (iv) The access to sex services premises should be discreet and discourage clients gathering or waiting on the street.

17.1.3 Noise

Objectives

- a) To minimise any adverse physical impact, such as noise disturbance and overlooking

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Controls

- (i) The use of the premises shall not give rise to:
 - Transmission of vibration to any place of different occupancy; and
 - 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 Protection of the Environment Operations Act.

17.2 PARKING

Objectives

- a) To ensure adequate car parking facilities are provided to service the use.
- b) To ensure that sex services premises and restricted premises do not result in adverse traffic and parking impacts to the surrounding locality.

Controls

- (i) Comply with Section 16 – Car parking of the DCP to determine what car parking is required for these developments.

17.3 SIGNAGE

Objectives

- a) To ensure that signage for sex services premises and restricted premises is discreetly sized and located.
- b) To allow Council to consent to signage for a sex services premises operation in accordance with Section 14 – Outdoor Signage, subject to consideration of the following:-

Controls

- (i) The sign does not exceed 3 metres x 0.3 metres in size and identifies only the name of the person who conducts the business or the registered name of the business;
- (ii) There is only one sign per premises;
- (iii) 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.
- (iv) The sign is compatible with the design of the building it is attached to.
- (v) Signage should be restricted to the name/address and telephone number

17.4 HEALTH REQUIREMENTS

17.4.1 Cleanliness

Objectives

- a) To ensure that the premises are maintained and operated in a manner that protects the health of workers and patrons.

Controls

- (i) The premises are to be kept in a clean condition at all times
- (ii) The regular use of a contract cleaning service is recommended.
- (iii) Cleaning should be performed daily with disinfection of shower floors and weekly scrubbing to remove soap accumulation.
- (iv) Spot cleaning is to be carried out by staff. Particular attention should be paid to the following areas.

17.4.2 Showers, Baths and Toilets

Objectives

- a) To ensure that the premises are maintained and operated in a manner that protects the health of workers and patrons.

Controls

- (i) These fixtures are subject to mould growth and have the potential to harbour and spread fungi, in particular tinea.
- (ii) Adequate ventilation is to be provided in accordance with the BCA.
- (iii) Regular cleaning and the use of 'hospital grade' disinfectants are required to control mould problems.
- (iv) The proprietor must ensure baths and showers are cleansed disinfected after each use preferably with a hypochlorite based disinfectant.
- (v) Adequate sanitary facilities are to be provided on the premises together with liquid soap and disposable towels at each required wash basin.
- (vi) All required wash basins shall be provided with an adequate supply of potable water, at a temperature of 40 degrees Celsius delivered through an approved mixing device.

17.4.3 Linen

Objectives

- a) To ensure that the premises are maintained and operated in a manner that protects the health of workers and patrons.

Controls

- (i) The proprietor must provide clean linen or a clean cover and clean towels for the use of each client.
- (ii) All linen, including towelling which comes into contact with clients, shall be changed immediately after each use.

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- (iii) Receptacles shall be provided for the separate storage of clean linen and used linen.

17.4.4 Disinfection of Swimming and Spa Pools

Objectives

- a) To ensure that the premises are maintained and operated in a manner that protects the health of workers and patrons.

Controls

- (i) For the purposes of this policy, a “spa-pool” is a pool fitted with a water recirculation and/or an air injection system and a water filter. A “spa bath” is a domestic type bath fitted with a water recirculation 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.
- (ii) Officers of Council and the NSW Health Department may carry out periodic tests to sure 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).
- (iii) 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 officers.
- (iv) 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
 - Baqualcil; and
 - pH;
 - Reserve alkalinity.
- (v) Spa pools should be drained regularly so they can be satisfactorily cleaned and refilled with fresh water.
- (vi) The temperature of the water in the bathing area of a spa pool should not be allowed to exceed 40 °C.
- (vii) Spa pools should be provided with a system of automatic analysis and dosage control equipment that maintains the level of disinfectant.
- (viii) The guidelines for disinfecting public swimming and spa pools can be obtained from Council’s Health and Building Surveyor in the Environmental Services Department.

17.4.5 Storage and Handling Of Waste

Objectives

- a) To ensure that the premises are maintained and operated in a manner that protects the health of workers and patrons.

Controls

- (i) Spa pools should be drained regularly so they can be satisfactorily cleaned and refilled with fresh water.
- (ii) Provision is to be made for the safe 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.
- (iii) If contaminated sharps (e.g. Needles or razors) are generated, then non-reusable sharps containers which comply with Australian Standard AS 4031 should be provided for their disposal and appropriate arrangements are to be made for their collection.
- (iv) Adequate disinfection fluids are to be provided for any equipment used such as sex aids, for disinfection after each use.

17.4.6 Bars and Food Preparation Areas

Objectives

- a) To ensure that the premises are maintained and operated in a manner that protects the health of workers and patrons.

Controls

- (i) All bars and food preparation areas shall comply with the Australian Standard for Food premises (AS 4674)

17.4.7 Health of Sex Workers

Objectives

- a) To ensure that the premises are maintained and operated in a manner that protects the health of workers and patrons.

Controls

- (i) It is recommended that sex workers be immunised against Hepatitis B and in some cases, Hepatitis A, following consultation with a medical practitioner or their local sexual health service.
- (ii) Sex workers should be made aware that certain sexually transmissible conditions have no symptoms (eg Chlamydia) and can be carried and transmitted.
- (iii) The Public Health Act provides that a person who knows that he or she suffers from a sexually transmissible medical condition is guilty of an offence if he or she has sexual intercourse with another person unless, before the intercourse takes place, the other person:

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- Has been informed of the risk of contracting a sexually transmissible medical condition from the person with whom intercourse is proposed; and
 - Has voluntarily agreed to accept the risk.
- (iv) The Public Health Act also provides that an owner or occupier of a building or place who knowingly permits another person to:
- Have sexual intercourse at the building or place for the purpose of prostitution; and
 - In doing so, commit an offence under subsection (1) is guilty of an offence.

17.4.8 Adequate Sanitary Facilities

Objectives

- a) To ensure that the premises are maintained and operated in a manner that protects the health of workers and patrons.
- b) To ensure that adequate facilities are provided for the amenity of workers and patrons.

Controls

- (i) All bathrooms and toilets are to be self contained and inside the premises.
- (ii) It is recommended that each room contains its own sanitary facilities (including toilet, shower/bath and a hand basin) for the use of both workers and their clients.
- (iii) 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 (3) sex worker operation. Also if spa pools, saunas or steam rooms are proposed, then additional shower facilities are required.

17.5 BUILDING REQUIREMENTS

Objectives

- a) To ensure that buildings are designed and constructed to an acceptable standard.

Controls

- (i) All Sex Services Premises shall be fitted with the necessary services and facilities which are currently required for Class 5 Buildings (Office Building) under the Building Code of Australia;
- (ii) Disabled access is to be provided where practicable and in accordance with the Building Code of Australia, AS1428.1 and the Disability Discrimination Act.

Note: Council Officers have the power to conduct regular inspections of all Sex Services related land uses to determine whether they are in compliance with the existing approvals and relevant standards.

17.6 OTHER REQUIREMENTS

17.6.1 Operational requirements

Objectives

- a) To ensure that sex services premises are operated, designed and constructed to appropriate standards.

Controls

- (i) Security and money handling measures are to be incorporated into a Sex Services Premises. Details to be provided with the development application.
- (ii) Where consent is granted, a specified proprietor will be nominated on the consent. Council is to be notified if there is a change to the number of rooms used for sexual services, hours of operation or signage. A new development application may be required prior to further work commencing.

17.6.2 Applications to Close Sex services premises

Objectives

- a) To advise of Council's powers in relation to regulating sex services premises

Controls

- (i) An application can be made by a Council to the Land and Environment Court under Section 17 of the Disorderly Houses Amendment Bill for premises not to be used as a sex services premises.
- (ii) This section specifies the grounds under which such applications may be made. This section operates in addition to the existing powers of Council to serve notice upon premises operating without consent or outside existing conditions of development consent.

17.6.3 Inspection of Premises

Objectives

- a) To advise of Council's powers in relation to regulating sex services premises

Controls

- (i) Council's Authorised Officers have the power to conduct regular inspections of all sex industry related land uses to determine whether they comply with the standards of the Development Control Plan, the conditions of consent (if applicable).
- (ii) Council's Authorised Officers may also conduct inspections in relation to any complaints received.

17.6.4 Provision, Storage and use of Condoms, Latex and Other Equipment

Objectives

- a) To advise of appropriate measures to be employed in the operation of premises.

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Controls

- (i) 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.
- (ii) 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.
- (iii) The proprietor must provide an adequate supply of a variety of thickness dental dams, gloves (and other approved latex products) and water based lubricants free of charge to the sex workers and their clients. Condom vending machines are not permitted as a means of supply.

17.7 EDUCATION OF WORKERS AND CLIENTS

Objectives

- a) To ensure adequate awareness of health related issues associated with sex services premises operation.

Controls

- (i) The provisions of the Occupational Health & Safety Act mean that the practice of safe sex must be the basis on which the workplace operates.
- (ii) The proprietor should provide such information to sex workers in the workplace about safe sex; sexually transmissible disease; and cleaning and disinfection of equipment as is necessary to enable the workers to perform their work in a manner that is safe.
- (iii) This should include reasonable access by staff from the Sex Workers Outreach Project (SWOP), sexual health Services or other relevant health services.
- (iv) The proprietor should provide written information at the workplace for clients about the transmission of STD's including HIV infection and hepatitis A, B and C. This information should be provided in a variety of languages.
- (v) If a sex worker has difficulty communicating in the English language, the proprietor should provide, or arrange for the provision of, the information in a language with which the sex worker is familiar.
- (vi) The proprietor must ensure that all new sex workers are well informed of the need to use condoms, dams and water based lubricants, and that on-going education regarding safe sex practices is provided.

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