



Part C – Specific Landuse Controls

Chapter C16: Sex Services Premises and Restricted Premises (Sex Shops)

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1 INTRODUCTION

This chapter of the DCP aims to provide guidelines for the establishment and management of sex services premises and restricted premises within the City of Wollongong Local Government Area.

This chapter of the DCP should be read in conjunction with the provisions of the relevant LEP applying to the site to determine the zoning of the subject land and the permissibility of the proposed sex services premises or restricted premises.

Before submitting a Development Application a pre-lodgement consultation with Council is recommended to ensure you are familiar with relevant requirements, prior to the lodgement of the Development Application.

2 OBJECTIVES

The aims and objectives of this Plan are:

- (a) To provide guidelines for the determination of applications for sex services premises and restricted premises in the City of Wollongong.
- (b) To acknowledge that whilst sex services premises and restricted premises are permitted in appropriate locations within Wollongong City, as determined in conformity with this chapter of the DCP, they are sensitive land uses and their location needs consideration beyond that of mere physical impact.
- (c) To provide appropriate locational restrictions for any sex services premises to ensure such premises are located at a reasonable distance away from any residential development or areas and any other sensitive land uses, such as places of worship or places where children and adolescents regularly gather, to minimise potential adverse social, economic and amenity effects upon the surrounding locality.
- (d) To control the location of sex services premises to avoid a concentration of these uses and to minimise any cumulative impact of such activities and to ensure that such premises do not become a prominent feature in the streetscape.
- (e) To ensure that all sex services premises and restricted premises are appropriately regulated under the Environmental Planning and Assessment Act 1979.
- (f) To identify appropriate health and hygiene standards for the operation of sex services premises.
- (g) To ensure the safety and discretion of clients, staff, and members of the public.

3 DEFINITIONS

Home Occupation (Sex Services) Refer to Local Environmental Plan

Premises Manager means the manager of the sex services business.

Premises Operator means the owner of the sex services business.

Premises Owner means the registered owner(s) of the premises.

Prostitution means the provision of a sexual act or sexual service in return for payment or reward.

Restricted Premises Refer to Local Environmental Plan

Sex Services Refer to Local Environmental Plan

Sex Services Premises Refer to Local Environmental Plan

Spruikers: persons located on the public way, usually associated with or employed by a sex services premises, who seek to entice customers to enter the premises.

4 PLANNING AND REGULATORY POWERS - OTHER AUTHORITIES

1. Council's responsibility in relation to "sex services premises" centres primarily on land use planning under the Environmental Planning and Assessment Act 1979. Responsibility for safe health practices in the workplace rests with the NSW Department of Health, while the WorkCover Authority is the primary authority regarding occupational health and safety issues in any workplace. Sex workers and brothel owners/proprietors must comply with Section 13 of the Public Health Act 1991.
2. Council will also periodically liaise with the NSW Police Service concerning complaints received about "sex services premises". Issues of illegal immigrant sex workers are matters for investigation by the Australian Federal Police and Commonwealth Department of Immigration. Issues of criminal behaviour are matters for the NSW Police Service to investigate and are outside the scope of this plan.
3. In appropriate circumstances, Council may refer Development Applications for "sex services premises" to the following:
 - (a) NSW Police e.g. for comment in relation to Crime Prevention through Environmental Design (CPTED) issues;
 - (b) NSW Department of Health;
 - (c) Aids Council of New South Wales, (ACON); and
 - (d) Any other relevant government department, agency or organisation, depending upon the nature and circumstances of the application.

5 RELEVANT LEGISLATION

1. The management and operation of "sex services premises" in NSW is regulated by the following Acts:
 - Environmental Planning and Assessment Act 1979;
 - Brothels Act 2007;
 - Public Health Act 1991;
 - Restricted Premises Act 1943;
 - Summary Offences Act 1988;
 - Crimes Act 1900;
 - Local Government Act 1993;

- Building Code of Australia; and
 - Occupational Health and Safety Act 2000.
2. Before submitting a Development Application it is recommended that persons seeking approval for “sex services premises” should familiarise themselves with the relevant sections of these Acts and their effect on the operation of a sex services premises.
 3. The NSW WorkCover Authority’s publication titled “*Health and Safety Guidelines for Brothels in NSW*” published by WorkCover NSW (2001), requires that sex services premises (brothels) shall have at least one current copy of the Guidelines placed in all staff and client waiting areas. These guidelines provide best practice from maintenance of a safe and healthy environment for sex workers, employees, clients and visitors.

6 PLANNING CONTROLS

6.1 Locational Requirements Relating to Sex Services Premises

1. In addition to clause 7.11 of the Wollongong Local Environmental Plan 2009:
 - a. Sex services premises must not be located within a 150 metre radius of land which has development approval for, or where the land is used for, any one or more of the following uses:
 - i. child care centres,
 - ii. places of worship,
 - iii. community facilities,
 - iv. residential dwellings,
 - v. residential flat buildings (excluding mixed use developments),
 - vi. boarding houses,
 - vii. educational establishments,
 - viii. entertainment facilities,
 - ix. group homes,
 - x. public open space or reserves,
 - xi. any other approved sex services premises,
 - xii. home occupation (sex services),
 - xiii. restricted premises;
 - xiv. a licensed premises, and/or
 - xv. any place where children and adolescents regularly gather.
 - b. The 150 metre radius referred to above is to be measured in a straight line on a horizontal plane from the proposed point of entry to the building to be used for the purpose of a “sex services premises”, to the nearest boundary of the land approved or used for one or more of the purposes listed above. Where more than one point of entry is proposed, the radius is to commence from the point of entry closest to the nearest boundary of the land approved or used for one or more of the purposes above.

6.2 Size, Layout and Design of Sex Services Premises

Sex services premises must meet the following design requirements:

1. The building design is to be compatible with the surrounding built form (to discreetly blend into the streetscape);

2. Only one separate street level access is permitted and there must be no other internal access to any other tenancy;
3. The entrances, exits and external appearance shall be well lit but not to the extent where it becomes a prominent feature in the streetscape.
4. Sex services premises shall not display sex workers, or sex related products from the windows, doors or outside of the premises. Activities relating to sex services premises shall be contained wholly within the building and are not to be visible from the windows, doors or outside of the premises.
5. Restricted premises must not display merchandise in the doors or windows and must not be visible from outside the premises.
6. No signs shall be permitted which, in the opinion of Council, are lewd, sexually explicit or offensive. "A" frame signs and signs with flashing lights are not permitted. Signage shall, however, clearly identify the number of the building only so as to minimise potential nuisance to neighbours.
7. Sex services premises shall minimise potential nuisance to neighbours in the street by displaying the building number in one location only, in a discrete manner that is clearly visible from the street, and is no larger than 300mm wide by 150mm high.
8. The paint finishes on external walls should not be such that they become a prominent feature in the streetscape (e.g. fluorescent or excessively bright colours).
9. The premises must comply with the requirements of the Building Code of Australia and access for people with a disability should be provided in accordance with all relevant legislation. In particular, the Disability Discrimination Act (DDA) requires that major entrances to premises to which the public is entitled to enter need to be designed and constructed to provide equitable treatment of users and meet minimum standards of grade, doorway width and connectivity.
10. Crime Prevention through Environmental Design (CPTED) issues should be addressed at the design/concept stage of the development. Refer to Chapter E2.

6.3 Car Parking

1. Off-street parking must be provided at the rate of one (1) car parking space per 40 square metres of floor space.
2. Car parks should be well lit and easy for staff and customers to locate.

6.4 Waste Disposal and Collection

1. Wollongong Council does not collect trade waste. Operators are to make their own arrangements for trade waste collection, and ensure that any potentially hazardous waste is collected by a clinical waste contractor.
2. Premises should provide sharp safes in sanitary facilities for sharps disposal.
3. Waste containers are to be stored and collected from within the site.
4. Waste disposal operations must comply with the NSW Department of Health and WorkCover guidelines.

6.5 Security and Public Safety

1. Development Applications are to provide details on measures to be undertaken to safeguard workers, clients and the general public. Such details are to address the number and hours of security personnel and the lighting of access ways and car parking areas. A private security company is to be engaged to monitor and regularly check entrances and exits.
2. Security intercom / alarms are to be installed in each room that is used for sexual activity. These alarms are to connect back to a central base, such as reception, that is to be monitored at all times.

6.6 Spruikers

Spruikers are not permitted in association with the operation of any sex services premises or restricted premises.

6.7 Plans of Management for Sex Services Premises

A plan of management must be submitted with Development Applications for all types of sex services premises. Considerations to be addressed within a plan of management are included in Appendix 1. **NOTE:** The premises operator and the premises owner shall **both** be held responsible for ensuring that the premises are run in accordance with an approved plan of management. Consent applies to the land and hence the owner must be party to the plan of management.

Plan of Management must address the following:

1. Premise Owner, Premise Operator and premise manager(s)
 - a. Provide the name and contact details of the Premises Owner, Premises Operator and Premises Manager(s);
 - b. Registered business name and trading name (if different).
2. The premise
 - a. Identify type of business, operating hours, services provided;
 - b. Identify number of working rooms/cubicles;
 - c. Identify all services.
3. Staff:
 - a. Identify all staff, responsibilities, working hours, prohibitions;
 - b. Staff facilities – staff rooms, sanitary facilities, notice boards;
 - c. Identify procedures for prohibiting underage staff.
4. Safer workplaces:
 - a. Safer Design – Entrances and Exits, security and surveillance systems, client assessment and reception areas;
 - b. Safer Operation – Safety of staff in isolated areas, security providers, video surveillance procedures, first aid, critical incident response, safe handling of money.
5. Managing clients:
 - a. Identify procedures for client assessment;
 - b. Procedures for equitable access procedures.
6. Compliance:
 - a. Identify liaison protocols with health service providers;

- b. Develop communication and conflict resolution procedures.
- 7. Cleanliness of premise:
 - a. Identify cleaning procedures including equipment, spa pools, waste, safe sharps disposal.
- 8. Staff health and safety:
 - a. Detail procedures to support health of staff;
 - b. Identify staff induction and training and resources;
 - c. Detail procedures for client health checking.
- 9. Equipment and safety:
 - a. Safe sex equipment, linen – provision, storage, cleaning;
 - b. Specialised equipment, mattresses etc.

6.8 Statement of Environmental Effects for Sex Services Premises

The following information must be included in the Statement of Environmental Effects which must be submitted with the required Development Application:

- (a) Number of employees;
- (b) Description of the activities that are proposed to be undertaken at the premises;
- (c) Details of existing uses of adjoining properties or any other uses established on the property;
- (d) Hours and days of operation;
- (e) Number of rooms in the premises;
- (f) The rooms to be used for the proposed activities;
- (g) The name of the business proprietor;
- (h) Floor plan of the premises;
- (i) Elevation plan (from all sides) where a new premises or additions to an existing premises are proposed;
- (j) Security arrangements;
- (k) Health and hygiene arrangements;
- (l) Plan of management; and
- (m) Compliance with other relevant planning instruments and development control plans.

6.9 Plan information for Sex Services Premises:

- 1. The following plans must be submitted with the required Development Application:
 - (a) A location plan drawn to scale showing the proximity of the site to all churches, hospitals, schools, community facilities, residential properties, any other brothel, or any other place regularly frequented by children within 150 metres of the site;

- (b) A full site and floor plan drawn to scale of 1:100 showing room layout and dimensions, partitioning, location of windows and doors including all entrances to and exits from the building. Any proposed internal and external alterations to the premises are to be clearly indicated on the plan. The use of each room should be specified;
 - (c) Sanitary facilities to be provided;
 - (d) Food handling and preparation areas;
 - (e) Ventilation and lighting;
 - (f) Layout of the parking area, including the location and number of parking spaces;
 - (g) The size, form or shape, illumination and position, colour and content of any proposed business identification sign, street number, advertisement or promotional device to be erected or displayed;
 - (h) Details of the existing and proposed external lighting;
 - (i) A specified operator must be named on the application; and
 - (j) Waste disposal areas and arrangements.
2. Development Applications must specify the name and residential address of the person responsible for operating the sex services premises.
 3. The nominated operator must register the sex services premises with Council for ongoing health surveillance services. A condition of any consent will require written notification to Council of a change in name of the nominated operator.
 4. The personal safety of clients and workers should be protected at all times. Development Applications submitted to Council should include details on security arrangements.
 5. A Plan of Management must also be submitted with Development Applications for all sex services premises (see Appendix 1).

6.10 Statement of Environmental Effects Restricted Premises

A Statement of Environmental Effects (SEE) must be submitted with the Development Application. The SEE should be prepared by a suitably qualified and experienced town planning consultant. The SEE must address the following matters / issues:

- (a) Full details of the proposed restricted premises including:
 - (i) Number of employees at any one time in the premises;
 - (ii) Proposed hours and days of operation;
 - (iii) The name of the business proprietor;
 - (iv) Floor plan of the premises;
- (b) Proposed security arrangements;
- (c) Health and hygiene arrangements; and
- (d) Written evidence as to the proposal's compliance with relevant environmental planning instruments (including Wollongong LEP 2009) and compliance with this chapter and any other relevant chapters in this DCP.

6.11 Plan Information for Restricted Premises

The following additional information is required to be submitted with the Development Application:

- (a) A full site and floor plan drawn to scale of 1:100 showing room layout and dimensions, partitioning, location of windows and doors including all entrances to and exits from the building. Any proposed internal and external alterations to the premises are to be clearly indicated on the plan. The use of each room should be specified.
- (b) A description of all materials, articles, compounds, preparations and the like to be offered for sale.
- (c) Layout of the parking area, including the location and number of parking spaces.
- (d) business identification sign, street number, advertisement or promotional device to be erected or displayed.
- (e) Details of the existing and proposed external lighting.
- (f) A specified operator must be named on the application.
- (g) Waste disposal arrangements taking into account the requirements of the Waste Management chapter in Part E of the DCP.

6.12 Other Provisions

1. All development consents granted to a sex services premises or restricted premises shall be initially limited to a period of 24 months. At the completion of this period the operator/owner is required to submit a S96 Modification requesting an extension. Council will re-evaluate the proposal in terms of any complaints received regarding the operation of the business, and in terms of compliance with conditions of consent. If Council is satisfied that the premises has been operated in an orderly manner with minimal impact upon nearby uses, and in compliance with conditions of consent, it may approve a modification to the consent under the Section 96 of the Environmental Planning and Assessment Act, 1979, to extend the consent for a further twelve months with a further review to be conducted at the end of this period.
2. Council may also impose conditions of consent relating to hours of operation, which will be subject to review after the 24 month trial. If, after the initial 24 month trial, any hours of operation are shown to be causing a nuisance or disturbance in the neighbourhood, the approved hours of operation may be further restricted.
3. Should the specified operator change, Council must be notified prior to the business operating.
4. If the number of sex workers, hours of operation or signage are proposed to be changed, an amendment to the development consent should be applied for.
5. Persons under the age of 18 years are not allowed to be on commercial sex services premises and are not to be engaged in the business as a sex worker.
6. No alcohol is to be offered for sale.

7 LEGAL ACTION

The NSW Land and Environment Court, on application by Council, may make an order under section 17 of the Restricted Premises Act 1943 for the cessation of the use of a premises as an unauthorised “sex services premises”.

The Restricted Premises Act 1943 specifies the grounds under which an application may be made to the NSW Land and Environment Court. Additionally, Council has other powers under the Environmental Planning and Assessment Act 1979 available to deal with “sex services premises” or “restricted premises” operating without development consent or operating contrary to conditions of a development consent.