



7. PLANNING

Policy 7.8

Sex Services Premises and Home Occupation (Sex Services) Premises Requirements

Version 2

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7.8 SEX SERVICES PREMISES REQUIREMENTS

OBJECTIVES:

To provide location requirements, development guidelines and advice to applicants on the information required to be submitted with a development application for a sex services premises and home occupation (sex services) premises.

DEFINITIONS

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:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, traffic generation or otherwise, or
- (c) the exhibition of any notice, advertisement or sign, or
- (d) 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.

restricted premises means business premises or retail premises that, due to their nature, restrict access to patrons or customers over 18 years of age, and includes sex shops and similar premises, but does not include hotel or motel accommodation, a pub, home occupation (sex services) or sex services premises..

sex services means sexual acts or sexual services in exchange for payment

sex services premises means a brothel, but does not include home occupation (sex services).

POLICY:

Development Application - Information to be Supplied

A development application for a sex services premises must be accompanied by all information as required by Schedule 1 of the Environmental Planning and Assessment Regulation 2000¹ and also must include:

- A description of the activities that are proposed to be undertaken at the premises.
- A site and location plan to scale showing the proximity of the subject site to adjoining properties and sensitive land uses such as dwellings, dwelling houses, child care centres, educational establishments, places of public entertainment, places of assembly, recreation establishments, recreation facilities, places of

¹ Or should this regulation be repealed, any new or amending regulation

worship, hospitals and any other place where children or young people are likely to regularly congregate including railway stations and major bus stops.

- A floor plan to scale showing all room uses (including the identification of rooms proposed to be used for the conduct of prostitution), layouts, location of windows and doors including all entrances/exits from the building and the nomination of the primary access.
- An elevation plan.
- Food premises construction and fit-out plans.
- Proof of permissibility within the zone under the current Lithgow City Local Environmental Plan.
- Assessment of the proposed use against any applicable State Environmental Planning Policy, Regional Environmental Plan, Development Control Plan, this Policy and any other applicable Federal or State legislation.
- Location, number and layout of car parking.
- A Social Impact Statement prepared by a qualified social practitioner.
- Details of compliance with the Disability Discrimination Act 1992.
- Details of proposed signage indicating the size, number, colour, illumination, content and position.
- Details of existing and proposed external lighting.
- A plan of management detailing the operation and management of the sex services premises in terms of:
 - o Management and staff arrangements – details of the operator and owner including contact phone numbers; the number of sex workers and support staff; number of security guards and any other staff and their role.
 - o Access for clients – how access and egress will be provided for people including those with disabilities. It should also include how access is to be restricted to ensure that no person under 18 years of age gains access to the premises.
 - o Hours of operation – list proposed hours.
 - o Safe sex assurance – outline how safe sex information and equipment eg. condoms etc are to be made available to all occupants of the premises.
 - o Arrangement of appointments – outline a procedure for the admission of clients by appointment only noting that a telephone booking is preferred.
 - o Control of antisocial or violent behaviour – strategies which are to be implemented to deal with inappropriate behaviour in the premises. Relevant qualifications of security staff should be included to ensure that they can appropriately deal with such behaviour.
 - o Sale and supply of drugs – detail strategies to ensure that the sale and supply of drugs does not occur on the premises.
 - o Safety and security – measures to be taken to ensure the safety of both staff and clients within and outside of the premises. It should address matters such as the management and monitoring of people on the premises; maintaining a current list of emergency numbers; maintenance of an incident book on the premises which can be accessed by the police; alarm and surveillance systems; security patrols by licensed security firms.
 - o Waste and recycling management – demonstrate that adequate facilities have been provided for the storage and management of waste in accordance with NSW Health and WorkCover NSW Guidelines for Brothels and this Policy.
 - o Presentation of the premises – strategies demonstrating general upgrading and ongoing maintenance of the condition of the premises.

- o Cleanliness of the premises – demonstrate how the premises is to be kept clean and tidy in accordance with NSW Health and WorkCover NSW Guidelines for Brothels.
- o Access for Council officers and other regulatory staff – detail how access to the premises will be provided.

NOTE: Council encourages a pre-development application meeting to ensure that applicants are familiar with the relevant requirements.

Notification of Development Application

Development applications will be advertised and notified in accordance with the following:

- A letter being sent to the owners and occupiers of adjoining land and any other individual, group, organisation or similar deemed by Council to have, or likely to have an interest in the proposed development. The letter shall contain:
 - o the address of the proposed site
 - o a description of the proposed work/use
 - o an A4 notification plan (where practical) of any proposed building work which depicts its height, external configuration and siting
 - o name and contact number of the relevant Environmental Planner
 - o advice that the application may be inspected at Council's offices during normal office hours
 - o the closing date for written submissions
 - o advice that the authors details may be disclosed at some point in the determination process.
- An advertisement in a local newspaper.
- Notification period is for 14 days from the date of the advertisement in the local newspaper. Council maintains discretion to lengthen the notification period if considered necessary.

Written submissions or objections will be taken into consideration in Council's determination of the development application.

Referral

Development applications will be referred to the NSW Police, NSW Health, NSW Department of Education and other relevant government agencies for comment where considered appropriate.

Limits on Consent

If Council grants development consent, it shall impose a condition limiting the life of the consent to a period of 2 years from the date of issue of the Occupation Certificate.

Should the proponent wish to continue operations then this will be the subject of a new development application or modification application should the premises have operated without complaint during the period since development consent was granted.

Location

Home occupation (sex services) premises and sex services premises are permissible with consent only in the Industrial 4 Zone of the current Lithgow City Local Environmental Plan. In addition, a sex services premises shall not be located:

- within 80 metres of a restricted premises, another sex services premises, school, church, child care centre or recreational facility. This distance is to be measured on a direct route via the nearest public road.
- on a property that adjoins an arterial road.

Scale and Character

- Sex services premises are to be restricted in total floor space such as that it is to provide not more than 5 rooms in which acts of prostitution are to take place.
- No portion of any sex services premises not approved for use as a sex services premises is to be used for the conduct of acts of prostitution. Prostitution within an approved sex services premises is to be confined to rooms or areas so nominated on the submitted plans which are the subject of Council's consent.
- The sex services premises is to be provided with an adequate reception area/waiting room being a minimum area of 20m².
- The sex services or home occupation (sex services) premises is to be located on an allotment with a minimum size of 900m².
- A sex services premises is not to be located in a building that contains a dwelling.
- Any new building or refurbishment of an existing building is to be designed so as to be compatible with the built form of adjoining premises and integrated into the streetscape. The finishes on the building are not to draw undue attention to the premises.
- There is to be only 1 visible entrance/exit at street level and it is to be discreet, safe and unobtrusive.
- The premises must be numbered, with the number clearly visible from the street in a manner that does not draw undue attention to the premises.
- The interior of the premises must not be visible from any public place.
- Where the interior of the premises may be visible from neighbouring buildings, adequate measures should be taken to screen the interior of the building (ie. blinds, screens etc). Such screening is to match the outside colour of the building.
- Access for people with disability must be provided in accordance with all relevant

legislation.

- The premises must provide the following minimum staff facilities:
 - o Sanitary facilities (toilet, hand basin and shower)
 - o Rest area with seating
 - o Dining area with food preparation and storage areas
 - o Sink with running water, water boiling facilities and fridge
 - o Lockers to store personal items
 - o Notice board containing details required to be displayed to fulfil requirements of the Plan of Management.

Amenity

- The use of the premises shall not give rise to:
 - o Offensive noise as defined in the Protection of the Environment Operations Act 1997.
 - o A sound level at any point on the boundary of the premises greater than the background level which is to be provided to Council prior to issue of Occupation Certificate.
- There is to be no distinctive external lighting (ie. coloured globes).
- Spruikers (staff at the door or outside the premises who encourage patrons to enter) are not permitted.
- The premises shall not display sex workers or sex related products from windows, the entrance/exit or outside the premises.

NOTE: Council will exercise its discretion in relation to hours of operation, taking into consideration the nature of the surrounding land use, the approved hours of operation of surrounding land uses and any possible conflicts with these uses.

Parking

Parking shall be provided at the rate of 1 space per staff working at any one time in the premises, plus 1 space per room where acts of prostitution are conducted.

Signage (Sex Services Premises)

Signage shall be in accordance with the State Environmental Planning Policy No. 64 and Lithgow City Council – Outdoor Advertising Development Control Plan. In addition, any signage must also comply with the following:

- Only 1 flush wall or window sign as defined in the Greater Lithgow City Council – Outdoor Advertising Development Control Plan is permitted per premises.
- The sign must not exceed 0.3 metres by 0.6 metres in size and may only identify the registered name of the business.
- The sign shall not display words or images which are in the opinion of the Council

sexually explicit, lewd or otherwise offensive.

- Signs must not be illuminated.
- The sign must be compatible with the design of the building to which it is attached and the streetscape.
- No advertising is to be provided on bus shelters, seating or the like within the Local Government Area.

Security

- The design of carpark, landscaping and entrance/exit should facilitate casual or formal surveillance.
- The entrance/exit to the premises must be designed to facilitate the privacy of workers and clients without compromising personal safety.
- Adequate lighting of the carpark and entrance/exit is essential but not to the extent where it becomes a prominent feature in the streetscape.
- Any landscaping that is proposed should not obstruct the visibility and overlooking from public areas of the entrance/exit so as to ensure the safety of all workers and clients to premises.
- The operator of the premises is to provide a security patrol in the vicinity of the premises to ensure the proper conduct of patrons and the safety of staff leaving the premises.
- The premises must include adequate safety and surveillance systems.
- Secure entry and controlled internal and external access, preferably with remote door release mechanisms should be provided.
- The premises must have a duress alarm and intercom in each room that is used for acts of prostitution. These alarms are to be connected back to a central base (such as reception) that is to be monitored at all times.
- Rooms used for acts of prostitution must not include the provision of door locks.

NOTE: Operators must comply with the requirements of the Workplace Surveillance Act 2005 and Summary Offences Act 1988.

Building Standards

The premises is to comply with the provisions of the Building Code of Australia.

Health Standards

- The premises must comply with the NSW Health and WorkCover NSW Guidelines for Brothels and all premises must have a copy available for viewing in all staff and client waiting areas.
- Each room used or available for the conduct of acts of prostitution is to contain or have direct access to its own shower, toilet and wash hand basin facilities for the use of clients.
- Separate toilet and shower facilities must be provided for staff.
- All hand wash basins must be provided with an adequate supply of potable water at a temperature of 40.5 to 43.5°C and delivered through an appropriate mixing device that may be adjusted to enable hand washing under warm running water. Liquid antibacterial soap and single use paper towel or air dryers are also to be provided.
- Warm water systems must comply with the requirements of the Public Health Act 1991 and Public Health (Microbial Control) Regulation 2000.
- Any food preparation areas are to be constructed in accordance with AS 4674 Design, construction and fit-out of food premises.
- Swimming and Spa pools must comply with the NSW Health's Public Swimming Pool and Spa Pool Guidelines and the Protocol for Minimising Risk of Cryptosporidium Contamination in Public Swimming Pools and Spa Pools.
- Spa baths must be drained, filled and dosed with a non toxic solvent and surfactant, circulated, drained and then rinsed, on a weekly basis. Spa baths must be drained after each use so they can be cleaned and refilled with fresh water.
- Contaminated waste i.e. waste containing bodily fluids are to be double bagged in plastic and placed into a waste receptacle provided on the premises. Contaminated wastes are to be disposed of by a licensed waste contractor.
- Information on safe sex, sexually transmitted diseases and good sexual health practices must be freely available in English and a variety of community languages. This information is to be displayed in a waiting/reception area and be clearly visible to anyone entering the premises. All information must be medically accurate.

Other General Requirements

- Should the specified operator change, Council must be notified prior to the business operating.
- No alcohol is to be provided or offered for sale.
- Council will request regular reports from the local Police that the premises are being operated in a satisfactory manner.

Health Service Access and Inspections

The operators of sex services premises must provide reasonable access to the premises for authorised staff from health service providers and other agencies to provide information and educational activities to support the health and safety of staff and clients to the premises.

Council Officers will conduct inspections of all premises to assess their compliance with health standards and with conditions of development consent.

Operation Without Consent

Council has a responsibility to enforce the Environmental Planning and Assessment Act 1979² to ensure that sex services premises and home occupation (sex services) premises do not operate without consent from Council. This Act allows Council to take legal action against operators of sex services premises or home occupation (sex services) premises if they operate without consent or contrary to the consent conditions issued by Council.

If the premises do not have a consent to operate as a sex services premises or home occupation (sex services) premises, Council will investigate the matter and take action to ensure that the use is ceased.

If the premises does have consent, Council may still investigate to ensure it is operating within the conditions of consent. If the premises is not operating within the conditions of consent, Council may take legal action to ensure that it does.

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Attachments:					

² Or should this Act be repealed, any amending or replacement legislation