
PART D: Development controls by land use

Section D7 Sex Industry establishments

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1.0 Introduction

The sex industry includes businesses directly or indirectly providing sex-related products and services, or adult entertainment. The industry includes activities involving sex-related services, such as prostitution, and sex-related pastimes, such as sex shops and strip clubs.

Location requirements and development standards for establishments aim to minimise impacts on adjoining land uses, particularly residential accommodation, and other sensitive land uses. In addition to the *Newcastle Local Environmental Plan 2012* ([LEP 2012](#)), the *Restricted Premises Act 1943* provides the statutory framework for the control of sex services premises and restricted premises in NSW. The NSW Land and Environment Court developed a 'brothels' planning principle for the consideration of sex services premises.

2.0 Application

This section applies to all development consisting of:

- Home occupation (sex services)
- Restricted premises
- Sex services premises

For development involving heritage items or heritage conservation areas identified under [LEP 2012](#), a merit assessment will be undertaken to ensure the outcomes sought are balanced with heritage conservation outcomes.

3.0 Related sections

The following sections will also apply to development:

- C7 Safety & security
- C8 Social impact

The following sections may also apply to development:

- All of Part B
- C1 Traffic, parking and access
- C3 Vegetation preservation and care
- C4 Stormwater
- C5 Soil management
- C6 Waste management
- C7 Safety & security
- C9 Advertising and signage
- C10 Street awnings and balconies
- C11 Development adjoining laneways
- C12 Open space and landscaping
- All of Part E: Place and precincts

4.0 Objectives

1. Ensure sex industry establishments are sensitively located and are not concentrated in any one area.
2. The design and operation of sex industry establishments is to ensure they are discreet, fit within the character of the streetscape and do not adversely impact on the amenity of the neighbourhood.
3. Protect the privacy and visibility of workers, clients and activities associated with sex industry establishments.
4. Optimise the personal safety and security of workers, clients and the public through the design and operation of sex industry establishments.
5. Identify the appropriate health and hygiene standards to deliver the acceptable design and operation of sex industry establishments.
6. Safeguard reasonable working conditions for sex industry workers.

5.0 Definitions

A word or expression has the same meaning as it has in [LEP 2012](#), unless otherwise defined. Other words and expressions include:

- **Sex industry establishments** – is a term used when collectively referring to home occupation (sex services), restricted premises and sex services premises.

6.0 Application requirements

Development category	Application requirements	Explanatory notes
An application for development, including a change of use involving building work.	<p>An access report identifying the relevant matters to be addressed at the construction certificate stage, in circumstances where access constitutes a substantive public interest aspect of a proposal.</p> <p>Access reports should be prepared by a person who is a suitably qualified access consultant, such as a person who is appropriately accredited by the Association of Consultants in Access Australia Inc.</p>	<p>The <i>Disability (Access to Premises – Buildings) Standards 2010</i> applies to any part of a building impacted by the application for a change of use. This section does not require anything beyond the standard, but does require information on how the standard will be met through the building design in accordance with these application requirements. There may also be other standards under the <i>Disability Discrimination Act 1992</i> relevant to the public interest assessment of a proposal, such as the <i>Disability Standards for Education 2005</i>.</p>
An application for a change of use not involving building work.	<p>An access report to consider access matters, in circumstances where access constitutes a substantive public interest aspect of the proposal.</p> <p>Access reports should be prepared by a suitably qualified access consultant, such as a person appropriately accredited by the Association of Consultants in Access Australia Inc.</p>	<p>A change of use not involving building works may generate public interest considerations relevant to the assessment of a development application, including in circumstances where it is apparent that a building may not comply with the access requirements of the <i>Building Code of Australia</i>.</p>
Sex services premises and restricted premises that provide sexual entertainment.	<p>A plan of management, including, but not limited to:</p> <ul style="list-style-type: none"> • hours of operation • arrangement for parking and patron movement • a description of the layout of the premises, including the capacity, location and number of rooms, seating areas, and any stage or performance areas • details of any security measures that will be in place to ensure the safety and security of staff and patrons • procedures for managing any noise or other disturbances • procedures for cleaning and maintaining the premises. 	

7.0 Location, design and safety

Objectives	
<ol style="list-style-type: none"> 1. Ensure the appropriate location of sex services and restricted premises. 2. Design and locate sex services or restricted premises discreetly and unobtrusively with minimal impact on the streetscape. 3. Ensure sex services and restricted premises have adequate facilities to discourage loitering and provide safe exit for staff. 4. Provide awareness of the obligations under the <i>Commonwealth's Disability Discrimination Act 1992</i>. 	
Controls (C)	Explanatory notes
C-1. Sex services and restricted premises are not located within 200m walking distance from existing or approved sex services or restricted premises.	Walking distance means the shortest distance between two points measured along a route that may be safely walked by a pedestrian using, as far as reasonably practicable, public footpaths and pedestrian crossings.
C-2. Sex services and restricted premises are not located: <ol style="list-style-type: none"> a. within 150m walking distance from residential accommodation, excluding mixed use developments. This requirement may be relaxed by up to 50% for residential accommodation in a commercial or industrial zone b. within a 200m walking distance radius from or within a direct line of sight of a place of worship, hospital, school (including a preschool), child care centre or other place frequented by children for recreational, cultural or similar activities, or community facility; or other sensitive land uses. 	
C-3. A sex services premises is not located in a remote area or an area where public transport or support services (such as police, ambulance) are not conveniently at hand.	
C-4. A sex services premises is located at either: <ol style="list-style-type: none"> a. the rear of ground floor premises b. the above ground floor of a building c. the above street level of a building d. away from shopfronts and arcades or thoroughfares of high pedestrian use. 	
C-5. The design and external appearance of sex services or restricted premises, including any associated structure/s, does not dominate or have an adverse impact on the streetscape appearance and architectural character of the surrounding built environment.	

<p>C-6.All entrances and exits are to be:</p> <ol style="list-style-type: none"> a. designed to facilitate the privacy of staff and visitors without compromising personal safety b. visible from public areas and not obstructed by any existing or proposed landscaping c. provided with adequate lighting and d. designed to maximise surveillance and safety. 	
<p>C-7.Adequate lighting of the entrance is essential to ensure the safety of sex workers and clients who are leaving and arriving at the premises, but not to the extent where it becomes a prominent feature in the streetscape (eg. by high intensity lighting or the use of excessively bright colours).</p>	
<p>C-8.To ensure the safety of all workers and visitors any proposed landscaping is not to obstruct the visibility and passive surveillance from public areas of the entrance.</p>	
<p>C-9.The sex services premises is not to be of a colour which draws undue attention.</p>	
<p>C-10.Signage is limited to a single identification sign only, of modest dimensions, devoid of any lewd, sexually explicit, offensive and/or suggestive material, details to be included on the submitted architectural plans.</p>	
<p>C-11.Restricted premises, sex services premises and home occupation (sex services) do not display sex related products, sex workers, performers, or nude or semi-dressed staff from the windows, doors or outside of the premises. Activities are to be contained wholly within the building and are not to be visible from the public domain or surrounding properties.</p>	
<p>C-12.The interior of the premises must not be visible from any place in the public domain. Where the interior is visible from neighbouring buildings, adequate measures are to be taken to screen the interior of the building.</p>	
<p>C-13.Any acts of prostitution are confined to rooms or areas nominated on the submitted plans.</p>	<p>The statutory framework for licences concerning liquor is specified in the <i>Liquor Act 2007</i>.</p>
<p>C-14.An establishment providing sex services does not contain more than seven rooms for conducting acts of prostitution.</p>	
<p>C-15.All adult entertainment and sex industry premises must include measures that provide for and ensure adequate health, safety and security of staff and visitors including where appropriate:</p> <ol style="list-style-type: none"> a. the separation of reception and waiting rooms from other areas, such as working rooms and staff areas b. the elimination or minimisation of alcoves and other potential entrapment spaces and c. safety and surveillance systems. 	
<p>C-16.A sex services premises or restricted premises (that is an entertainment establishment) is provided with adequate reception area/waiting room facilities sufficient to discourage clients or prospective clients from loitering outside the premises.</p>	
<p>C-17.The privacy of patrons is to be considered through the design and internal layout of the premises.</p>	
<p>C-18.Staff facilities are to include a communal lounge or rest area and a bathroom for staff use only.</p>	
<p>C-19.Liquor is, under no circumstances, provided or offered for sale on restricted premises, sex services premises or home occupation (sex services) land uses unless such premises are appropriately licensed under the relevant legislation.</p>	

C-20.Restricted premises involving live shows, or the exhibition of films, satisfy the constructional and fire safety standards for a 9b Assembly Building under the provisions of the <i>Building Code of Australia</i> .	
C-21.An application for development including a change of use, is to provide an access report in accordance with the application requirements above.	

8.0 Amenity, health and hygiene

Objectives	
1. Provide adequate ventilation and lighting. 2. Minimise acoustic impact to surrounding properties. 3. Ensure all development is in accordance with the relevant food safety, health, hygiene and safety standards.	
Controls (C)	Explanatory notes
C-1. Sex services premises are to be designed to minimise noise transmission. Measures include: <ul style="list-style-type: none"> a. grouping room uses according to the noise level generated b. using storage or circulation zones in the premises to buffer noise. 	
C-2. The use of the premises does not give rise to: <ul style="list-style-type: none"> a. a sound level at any point on the boundary of the site greater than the background levels specified in Australian Standard <i>AS 1055:2018 – Acoustics - Description and measurement of environmental noise</i> (as amended) b. an “offensive noise” as defined in the <i>Protection of the Environment Operations Act, 1997</i> c. the transmission of vibration to any place of different occupancy. 	An acoustic report or noise impact assessment may be required when a noise-producing development is proposed near noise-sensitive areas.
C-3. All common areas, facilities and at least one suite and its facilities (including a toilet / ensuite) are required to be designed to be suitable for use by a person with a disability	
C-4. Waste disposal is provided and carried out in accordance with the <i>Health and safety guidelines for sex services premises in NSW</i> , published by SafeWork NSW (as amended).	
C-5. Each room used or available for use for the conduct of acts of prostitution contains or has direct access to its own shower and wash hand basin facilities for the use of both sex workers and their clients.	
C-6. All required wash hand basins are provided with a continuous supply of hot and cold water through an approved mixing spout which can be adjusted to enable hands to be washed under hot running water. The hot water supply is to be maintained and delivered at a temperature of at least 40°C.	
C-7. Sex services premises and home occupation (sex services) are designed and operated in accordance with the <i>Health and safety guidelines for sex services premises in NSW</i> , published by SafeWork.	<i>Health and safety guidelines for sex services premises in NSW</i> , by SafeWork NSW, outlines minimum standards for maintaining a safe and healthy environment for sex services establishments under the <i>Work Health and Safety Act 2011</i> and <i>Work Health and Safety Regulation 2017</i> . It is the owner/operator's responsibility to ensure relevant legislation and guidelines are satisfied in the design and ongoing operation of the premises.