

SEX INDUSTRY PREMISES

Introduction

- 11.1 Submitting a Development Application
- 11.2 Initial limits on development consent
- 11.3 Sex Services Premises
- 11.4 Home Occupation (Sex Services) Premises

INTRODUCTION

Controls

This part of the DCP provides controls for both “Sex Services Premises” and “Home Occupation (Sex Services) Premises”. These controls are provided to ensure that the design and location of sex industry premises do not result in a loss of amenity or create adverse social and environmental impacts. Under KLEP, Sex Services Premises are permissible with consent in all business zones. Additionally, Home Occupation (Sex Services) Premises are permissible with consent in the B2 and B4 zones. Clause 6.12 of the KLEP provides standards in relation to the location of sex service premises.

Objectives and controls in this part guide the development of sex services premises in meeting the aims and objectives within the KLEP. Specific planning controls are elaborated upon within this part of the DCP. Additionally, Council will assess any application for a sex services premises against the relevant matters set out in Section 17 of the *Restricted Premises Act, 1943*.

Representatives from various state and local authorities may have the power to enter and inspect sex industry premises to ensure it meets all relevant requirements.

Council may undertake inspections of sex industry premises so as to determine compliance with the NSW Public Health Act and Regulations, Protection of the Environment Operations Act and conditions of development consent made in accordance with the relevant planning controls. Representatives from Council have the legislative powers to enter and inspect premises to ensure it meets relevant requirements or in response to a complaint.

11.1 SUBMITTING A DEVELOPMENT APPLICATION

Further controls that may apply	
	SECTION C PART 23.1 - Social Impact

Objectives

- 1 To ensure that safety and amenity issues are considered early in the design phase.
- 2 To ensure the appropriate design, location and operation of sex industry premises within Ku-ring-gai.
- 3 To minimize any physical amenity impacts of sex industry premises upon adjoining land uses.
- 4 To avoid any detrimental change to the social character, identity, or perceived image of urban centres within Ku-ring-gai.

Controls

- 1 Before submitting a development application for a sex industry premises, applicants are to refer to Ku-ring-gai Council's 'DA Guide'. In addition to the requirements of the DA Guide, the submission of a development application for a sex industry premises is to provide the following:
 - i) A 'location plan' or 'site analysis plan' which identifies:
 - the location of uses identified in clause 6.12 of KLEP; and
 - the separation distance from other sex service premises required by this DCP.

Note: The distance is to be shown in metres and be at a scale of 1:500 or larger.
 - ii) A statement indicating how the proposal complies with Section 17 of the *Restricted Premises Act, 1943*.
 - iii) The 'Statement of Environmental Effects' must include the proposed number of sex workers and details of proposed support staff where relevant (e.g. receptionist, security and lighting, etc).
 - iv) A 'Crime Prevention through Environmental Design' (CPTED) report.

Note: Required for Sex Service Premises only.
 - v) Architectural plans indicating the number, size, and use of each room in the premises.
 - vi) A Plan of Management detailing the operation and management must be submitted for both commercial and home occupation (sex services) premises. The Plan of Management must provide details on measures to be undertaken to safeguard workers, clients and the general public. Such details are to address, but are not limited to, issues relating to the storage and handling of contaminated waste, health provisions, hours of operation, the number and hours of security personnel, and the lighting of access ways and car parking areas.

Note: Any development application related to sex services premises or home occupation (sex services) premises may be referred to other relevant government agencies (ie. NSW Police) and Council departments for comment where considered appropriate.

Note: Details of 'escort agencies' are to be included in the Plan of Management if it is proposed to operate from a sex services premises.

11.2 INITIAL LIMITS ON DEVELOPMENT CONSENT

Objectives

- 1 *To ensure the ongoing operation of the sex services premises is not detrimental to the amenity or safety of the surrounding area or the staff or clients of the premises.*

Controls

- 1 Development consent granted for sex services premises and home occupation (sex services) premises may be initially limited to a period of twelve (12) months, when Council will re-evaluate the proposal in terms of any complaints received regarding the approved operation, and compliance with any conditions of development consent.

11.3 SEX SERVICES PREMISES

Further controls that may apply	
	SECTION C PART 23.6 - Building Services

Objectives

- 1 To avoid the clustering of sex services premises within Ku-ring-gai.
- 2 To ensure sex services premises are located so as not to impact adversely on the environment, public areas, and other sensitive uses.
- 3 To ensure that the layout and design of sex services premises is such that their potential impacts and 'presence' in the locality is minimised.
- 4 To ensure the privacy and comfort of patrons.
- 5 To ensure the design and external appearance of the premises and any associated structure(s) do not have an adverse impact on the architectural character of the surrounding built environment.
- 6 To ensure adequate and appropriate access to the premises and its facilities is provided for persons with a disability.
- 7 To maximise the safety and security of staff, clients and the general public by upholding principles of Crime Prevention Through Environmental Design (CPTED).

Controls

Location

- 1 To avoid clustering, sex services premises are not to be located within 500 metres of the entrance to a building which contains an existing known sex services premises (measured from the building entrance of the proposed sex services premises). Council may also consider the presence of any sex services premises within a neighbouring Local Government Area (LGA) immediately adjoining the site.
- 2 Sex services premises proposed to be situated at ground or street level are to comply with the following:
 - i) The premises is to be located behind another tenancy which is not a sex services premises;
 - ii) The premises is to be separate and independently operated from the front tenancy; and
 - iii) The premises is not to be internally linked to the front tenancy.

Design of Premises

- 3 Works to existing buildings are to be carried out in such a way as to avoid the creation of potential entrapment spots where intruders may hide. This includes, but is not limited to, avoiding the creation of recesses in the building form; and securing external storage areas such as waste storage. For existing buildings where no new works are proposed, appropriate lighting is to illuminate existing entrapment spots.
- 4 All premises are to have either an intercom or a duress alarm in each working room that is used for sexual activity. Alarms are to connect back to a central base (such as reception) that is to be monitored at all times.
- 5 Intruder alarm systems, security screens, door and window locks and intruder resistant materials that comply with relevant Australian Standards, are to be provided.
- 6 New development is not to create large blank walls facing or abutting the street. Walls are to be modulated to avoid the creation of a large flat surface susceptible to graffiti.
- 7 Any security grilles used on windows are to be openable from inside in case of emergency.

11.3 SEX SERVICES PREMISES (continued)

Objectives

- 8 *To ensure that sex services premises do not cause disturbance in the neighbourhood because of their scale (including the number of sex workers and support staff), operating hours or any other factor.*
- 9 *To ensure advertising where permitted is discreet and inoffensive.*
- 10 *To ensure that adequate parking is provided for people working on the premises and clients using the facility so that the establishment of a sex service premises does not give rise to car parking congestion on the street.*
- 11 *To ensure that the location of parking does not adversely affect the surrounding locality.*
- 12 *To ensure the safety and security of car parking areas.*

Controls

- 8 The premises is to be provided with an adequate reception area/ waiting room with a minimum area of 20m² to prevent clients from loitering outside.
- 9 Not more than 5 rooms are to be provided in which acts of prostitution are to take place.
- 10 The privacy of patrons is to be considered through the design and internal layout of the premises.
- 11 Staff facilities are to include a communal lounge or rest area and a bathroom for staff use only. Staff facilities must include a staff noticeboard. This noticeboard must include information about safer sex, emergency contacts and other information required by NSW Health or SafeWork NSW.
- 12 If food is provided for sale at the premises food handling areas must comply with the requirements of the Australian Standard 4674.
- 13 Toilet and bathroom facilities are to be provided within the premises and not be shared with any other premises within the building.
- 14 Every working room is to be provided with separate sanitary facilities comprising a toilet, shower and hand basin directly accessible from that room for the use of both sex workers and their clients.
- 15 All common areas, facilities and at least one (1) suite and its facilities (including a toilet / en suite) are required to be designed to be suitable for use by a person with a disability.

Amenity

- 16 The premises and its activities are not to have an adverse affect on surrounding and adjoining land uses and business in the locality or within the same site.
- 17 The premises and its activities are to avoid unacceptable visual impact and possible offence to the public. Sex workers are not to display themselves in windows, doorways or outside a sex services premises.
- 18 The sex services premises is not to be of a colour which draws undue attention.
- 19 To ensure the privacy of patrons and ensure no potential offence is caused to adjoining or surrounding premises, the interior of a sex services premises is not to be visible from adjoining or surrounding premises or the public domain (which includes streets, parks and footpaths).
- 20 Sex services premises are to be designed to minimise noise transmission, measures include:
- i) grouping room uses according to the noise level generated;
 - ii) using storage or circulation zones within the premises to buffer

11.3 SEX SERVICES PREMISES (continued)

Controls

noise from adjacent apartments, mechanical equipment or corridors and lobby areas; and

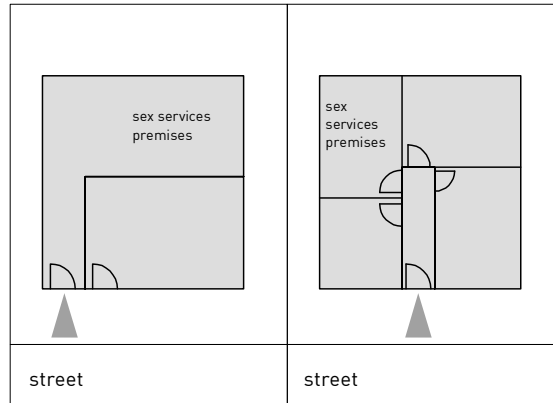


Figure 11.3-1:
Acceptable front entries for sex services premises.

- iii) incorporating appropriate noise shielding or attenuation techniques into the design of the building where appropriate.

Accessibility and Entrances

- 21 Access for people with a disability is to be provided in accordance with all relevant legislation and standards, including *AS1428 – Design for Access and Mobility* and the *Disability Discrimination Act 1992*.
- 22 Premises are to be designed so that there is only one (1) entrance to the premises which is to be located at the front of the building (or from the primary street access if the premises is located on a corner). Examples of acceptable front entry designs are shown in the Figure 11.3-1.
- 23 Casual surveillance of the entrance is essential to ensure the safety of all workers and visitors to the premises. Accordingly, the entrance to the sex service premises is to be designed to facilitate the privacy of workers and clients, without compromising personal safety.
- 24 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). 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.
- 25 External lighting is to be vandal resistant. Vandal resistance may be achieved by being high mounted and/or protected. Lighting is to be directed towards access / egress routes rather than towards buildings (including the subject or neighbouring buildings).

Note: External lighting is not to result in spillage of light onto adjoining properties.

11.3 SEX SERVICES PREMISES (continued)

Controls

- 26 Pathways are to be direct (i.e. straight) and blind corners are to be avoided (including on stairs, in corridors or in other situations where movement can be predicted). If blind corners cannot be avoided then they are to be treated with mirrors to improve sightlines.
- 27 All barriers beside pathways are to be low in height or visually permeable (i.e. 'see-through') including landscaping, fencing and the like.

Advertising Signs and Structures

- 28 In addition to the provisions set out in Part 12, sex services premises are to adhere to the controls set out below:
- i) One (1) sign per premises only;
 - ii) Signage may identify only the name of the person who conducts the business or the registered name of the business;
 - iii) A clearly visible street number is to be displayed;
 - iv) No merchandising relating to the sex services premises is to be erected, displayed or exhibited at any entry or in an access corridor (including any stairwell) to the premises;
 - v) No signs may display words or images, which are in the opinion of the Council, sexually explicit, lewd or otherwise offensive. Council is to be satisfied that the content, size, shape, and lighting of the sign is not likely to interfere with the character or amenity of the neighbourhood;
 - vi) Signs may be externally lit by spotlights only. Internally illuminated signs or 'flashing signs' are not permitted;
 - vii) A clear and legible sign is required advising clients that 'only' persons over the age of 18 will be permitted'. 'Proof of age may be required' must be clearly visible upon entry to the premises; and
 - viii) The sign is to be located at ground floor level outside the entrance to the premises, with a maximum size of 0.25m².
- 29 Where there is an inconsistency between this section and Parts 12 of this *DCP*, the controls set out above prevail to the extent of any inconsistency.

Car Parking

- 30 On site parking must be provided for sex services premises at the rate of 1 space per 2 employees working at any one time in the premises, plus 1 space per room where acts of prostitution are conducted.
- 31 Reduced parking requirements may be considered if it can be

11.3 SEX SERVICES PREMISES (continued)

Controls

demonstrated by the applicant that adequate on-street car parking and/or public transport services exist close to the premises and any public transport services operate at the times at which the premises are proposed to be open. It will also be necessary to demonstrate that a variation to the requirements for the provision of on-site parking will not adversely affect the amenity of any adjoining residential locality or properties.

- 32 On-site parking spaces are to be arranged in a grid pattern rather than a herringbone configuration.
- 33 Car parking spaces, circulation areas, roadways and ramps are to comply with AS2890.1.
- 34 Lighting is to be used in all outdoor car parks and in all vehicular and pedestrian access ways to and from the development. Details of the lighting, including its location, is to be provided with the development application. Where casual surveillance cannot be provided (i.e. carpark), electronic surveillance is to be installed.

Laundry Facilities

- 35 A properly constructed laundry room must be provided and commercial/industrial laundry equipment must be used.
- 36 Designated storage spaces must be provided for the separate storage of clean and used linen.

11.4 HOME OCCUPATION (SEX SERVICES) PREMISES

Objectives

- 1 *To avoid the clustering of home occupation (sex services) premises.*
- 2 *To ensure home occupation (sex services) are located so as not to impact adversely on the environment, public areas, and other sensitive uses.*
- 3 *To ensure that the layout and design of home occupation (sex services) premises is such that their potential impacts and "presence" in the locality is minimised.*
- 4 *To ensure the privacy and comfort of patrons.*
- 5 *To ensure the design and external appearance of the premises and any associated structure(s) do not have an adverse impact on the architectural character of the surrounding built environment.*
- 6 *To maximise the safety and security of staff, clients and the general public by upholding principles of Crime Prevention Through Environmental Design (CPTED).*

Controls

Location

- 1 To avoid clustering, home occupation (sex services) premises are not to be located within 150 metres of the entrance to a building which contains an existing known home occupation (sex services) premises (measured from the building entrance of the proposed home occupation (sex services) premises. Council may also consider the presence of any home occupation (sex services) premises within a neighbouring Local Government Area (LGA) immediately adjoining the site.

Design of Premises

- 2 Toilet and bathroom facilities are to be provided within the premises and not shared with any other premises within the building.
- 3 Works to existing buildings are to be carried out in such a way as to avoid the creation of potential entrapment spots where intruders may hide. This includes, but is not limited to, avoiding the creation of recesses in the building form and securing external storage areas such as waste storage. For existing buildings where no new works are proposed, appropriate lighting must illuminate existing entrapment spots.
- 4 Any security grilles used on windows are to be openable from inside in case of emergency.

Amenity

- 5 The premises and its activities are to not have an adverse effect on surrounding and adjoining land uses and business in the locality or within the same site.
- 6 The premises and its activities are to avoid unacceptable visual impact and possible offence to the public. Sex workers are not to display themselves in windows, doorways or outside a home occupation (sex services) premises.
- 7 The home occupation (sex services) premises is not to be of a colour which draws undue attention.
- 8 To ensure the privacy of patrons and ensure no potential offence is caused to adjoining or surrounding premises, the interior of a home occupation (sex services) premises is not to be visible from adjoining or surrounding premises or the public domain.

Accessibility and Entrances

- 9 Casual surveillance of the entrance is essential to ensure the safety of all workers and visitors in the premises. Accordingly, the entrance of home occupation (sex service) premises is to be designed to allow workers to see who approaches their dwelling without the need to open the front door.