



8e Sex services & restricted premises

Explanatory outline

Part 8e outlines assessment criteria that relate specifically to land uses relating to sex services and restricted development.

Note: the requirements of this part are in addition to those specified in other parts for particular development types, for example part **5 Retail and commercial development** or part **6 Industrial development**.

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8e.1 Application of this part

This part applies to development described in Column 1 when carried out on land described in Column 2.

Column 1: Type of development	Column 2: Applicable land
Restricted premises, including sex shops and similar premises	Any land
Sex services premises	

This part does not apply to Home occupation (sex services)

8e.2 Objectives

The objectives of this part are to:

1. appropriately locate sex services premises and restricted premises and ensure that such activities are at a suitable distance from a church, school, hospital, community facility or any premises or thoroughfare frequented by young people
2. ensure that sex services premises and restricted premises do not disrupt the amenity of the neighbourhood or locality
3. ensuring that the appearance of sex services premises and restricted premises are discrete and compatible with adjoining owners
4. ensure that all signage is discreet and in keeping with the streetscape
5. ensure that adequate carparking is provided for staff and clients
6. ensure that sex services premises and restricted premises integrate with adjoining land uses and do not create a “red light district”
7. ensure maintenance of hygiene and safe sex practices
8. prevent under age prostitution
9. uphold public safety and security, inclusive of sex industry workers
10. provide access to public transport

8e.3 Relevant planning instruments & legislation

Upper Hunter Local Environmental Plan 2013 is relevant to development to which this part applies. Further planning instruments and legislation may also be relevant.



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In the event of any inconsistency, the above listed instrument(s) will prevail over requirements or criteria contained in this part.

Note that the terms *Restricted premises* and *Sex services premises* are defined in *Upper Hunter Local Environmental Plan 2013*.

8e.4 Relationship to other parts of this DCP

In the event of any inconsistency between this part and other parts of this DCP, the provisions of this part will prevail over requirements or criteria contained in other parts.

8e.5 Definitions

There may be words used in this Part that are defined in the *Environmental Planning and Assessment Act, 1979*, as amended, or within *Upper Hunter Local Environmental Plan 2013*, as amended. The Dictionary to this DCP provides additional definitions that are relevant to this Part.

8e.6 The role of other organisations

Other agencies have a role to play in ensuring the health and safety standards of commercial sex services premises, as set out below:

NSW Health

NSW Health has primary responsibility for dealing with complaints related to public health and for monitoring health standards as set out in the NSW Health and WorkCover NSW document [Health and Safety Guidelines for Sex Services Premises in NSW](#).

SafeWorkNSW

SafeWork NSW has responsibility for administering the legislation relating to the health, safety and welfare at work of all employees and other people at the workplace under the *Work Health and Safety Act and Regulations 2011*.

NSW Police Service

Council may seek NSW Police advice on, or may refer certain applications (e.g. large commercial sex services premises) to Police to gain an appreciation of any safety and security issues in the neighbourhood so that appropriate safety and security measures are included in the proposed commercial sex services premises. In some cases Police may be requested to assist with a formal Crime Prevention Through Environmental Design risk assessment in accordance with the NSW Department of Infrastructure, Planning and Natural Resources (2001) guidelines [Crime Prevention and the Assessment of Development Applications](#).

8e.7 Supporting plans & documentation

Development applications that are subject to this part should be supported by the following plans and documentation.

Requirements listed below are *in addition* to requirements relating to the relevant type of development e.g. part 5 **Commercial and mixed use development** or part 6 **Industrial development**.



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Item	When required	Plans or information to be provided
A. General requirements	All applications	<p>Refer to part 2 Preparing and lodging a development application.</p> <p>The Statement of Environmental Effects should include the following details:</p> <ul style="list-style-type: none"> • Number of sex workers and details of support staff (e.g. receptionist, security etc); • Number, size and use of the rooms in the premises; • Hours and days of operation of the premises; • On site car parking; • Security and lighting; • Security and money handling measures; • Description of the anticipated impact on the surrounding area; • Waste storage and removal and details of compliance with part 11h Waste minimisation & management; • Access for people with a disability and details of compliance with this DCP; and • Current uses of adjoining properties and any other uses established on the subject property. <p>The detailed Floor Plans/Elevations/Sections should show:</p> <ul style="list-style-type: none"> • The use of each room including staff areas, reception areas etc; • All sanitary facilities including toilets, showers and hand basins; • Details of any spas or swimming pools; • Entrances to, and exists from, the building; • Details of food preparation areas; • Details of contaminated waste storage; • Any on-site laundry facilities; • Any proposed building alterations or additions (a Construction Certificate Application may also be required); • External colour scheme, if intended to change; • Access for people with a disability including: accessible entry/exits, sanitary facilities and showers; pathway and circulation details to common areas and facilities and to designated accessible suite(s) capable of use by a person with a disability; • Details of any advertising signs or structures (location, size, number, colour and content); and • Details of existing and proposed external lighting.



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Item	When required	Plans or information to be provided
B. Draft Plan of Management	All applications for sex services premises	A report including the detailed measures to be employed in operating the premises. This report should address all issues within this part of the DCP and be based on that given in <i>Sex services premises Planning guidelines December 2004</i> , prepared by the Sex Services Premises Planning Advisory Panel.
C. Crime Prevention	All applications	A report addressing the issues outlined in Department of Infrastructure, Planning and Natural Resources (2001) guidelines Crime Prevention and the Assessment of Development Applications .

8e.8 Assessment criteria

A performance-based approach will be adopted in the assessment of development applications. Applications will be assessed according to the extent to which the outcomes specified in the left-hand column of the following table will be satisfied or achieved by the design, construction or operation of the proposal.

The design guidelines specified in the right-hand column indicate design and best practice solutions by which the required outcomes can be met. They do not preclude other solutions that may be suitable under particular local circumstances. All proposals will be considered on merit.

Outcomes to be achieved	Design guidelines
<p>A. Location</p> <ul style="list-style-type: none"> ■ Sex services premises and restricted premises are located where they are least likely to offend ■ Sex services premises are not permitted in shop front premises. ■ Access to or exit from a sex services premises or restricted premises shall not be located in close visual or physical proximity to the entry of a premises used as a dwelling house. ■ Access to or exit from a sex services premises or 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. 	<ul style="list-style-type: none"> • Council will generally not grant development consent to a sex services premises having more than 5 rooms where sex services are provided at any one time.
<p>B. External appearance</p> <ul style="list-style-type: none"> ■ Sex services premises and restricted premises are discreetly integrated into the surrounding streetscape. ■ 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. ■ The interior of the premises is not to be visible from a public place ■ Sex services premises are designed to be compatible with the built form of adjoining premises. 	



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Outcomes to be achieved

Design guidelines

- 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).
- The access to sex services premises should be discreet and discourage clients gathering or waiting on the street.

C. Noise

- Any adverse physical impact, such as noise disturbance and overlooking is minimized
- 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.

D. Security and public safety

- A private security company is to be engaged to monitor and regularly check entrances and exits
- No alcohol is to be provided or offered for sale

E. Access & vehicle parking

- Adequate car parking facilities are provided to service the use, as specified in part **12a Access and vehicle parking**, including allocated disabled parking spaces.
- Sex services premises and restricted premises do not result in adverse traffic and parking impacts to the surrounding locality – the requirements of part **12a Access and vehicle parking** are met.

F. Signage

- Signage for sex services premises and restricted premises is discreetly sized and located
- Signs do not display words or images which are sexually explicit or otherwise sexually aggressive
- Any signage meets the requirements of part **8b Advertising & signage**, subject to consideration of the following:
 - The sign does not exceed 0.5m x 0.3m in size and identifies only the name of the person who conducts the business or the registered name of the business. The address and telephone number may also be displayed if necessary;
 - There is only one sign per premises;
 - The content, illumination, size and shape of the sign is not likely to interfere with the amenity of the neighbourhood.



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Outcomes to be achieved

Design guidelines

- The sign is compatible with the design of the building it is attached to.

G. Health requirements for sex services premises

- Premises are maintained and operated in a manner that protects the health of workers and patrons.
- The requirements of all applicable legislation and NSW Health and SafeWork NSW guidelines are complied with, including matters relating (but not limited) to:
 - *Cleanliness*
 - *Showers, Baths and Toilets*
 - *Linen*
 - *Disinfection of Swimming and Spa Pools*
 - *Storage and Handling Of Waste*
 - *Bars and Food Preparation Areas*
 - *Adequate Sanitary Facilities*
 - *Health of Sex Workers*
 - *Education of Workers and Clients*
 - *Provision, Storage and use of Condoms, Latex and Other Equipment*

H. Waste minimisation and management

- The development meets the requirements of part 11h **Waste minimisation & management**

I. Building requirements

- Buildings are designed and constructed to an acceptable standard.
- 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;
- Disabled access is to be provided where practicable and in accordance with *the Building Code of Australia, AS1428.1 and the Disability Discrimination Act*.

J. Limit on development consent

- All development consents granted to a sex services premises application shall be initially limited to a period of 12 months. At the completion of this period, 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.
- Council may also impose conditions of consent relating to the hours of operation. This will also be subject of review after the 12 month trial. If, after the 12 month trial, any hours of operation are shown to be causing a nuisance or disturbance in the neighborhood, the approved hours of operation may be further restricted.



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8e.9 Supplementary guidance

The following documents or reference materials provide further advice or information that is relevant to this part:

[Sex services premises Planning guidelines December 2004](#), prepared by the Sex Services Premises Planning Advisory Panel