

Development Guidelines

Sex Industry and Adult Entertainment Premises



Sex industry and adult entertainment premises

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1.1

Introduction

This Guideline provides advice on the basic information required for those who are considering seeking consent for any type of adult entertainment and/or sex industry premises. Development consent is needed for all types of adult entertainment and sex industry premises (except sex services (home occupation) premises covered by exempt development provisions) before they can legally operate.

Adult entertainment and sex industry premises have a long history within the City of Sydney Local Government Area and have become an established feature in some areas. Premises are required to operate in a discrete manner and seek to comply with Council's requirements for development consent. Whilst the impact of individual premises can vary in relation to their nature and scale, the accumulation of premises may exacerbate any negative amenity impacts. It is therefore important that land use planning controls seek to reduce any negative impacts whilst allowing the development of adult entertainment and sex industry premises in suitable locations, and of an appropriate scale and operation.

Council's responsibilities in relation to adult entertainment and sex industry premises are primarily concerned with land use planning under the *Environmental Planning and Assessment Act 1979* and the operation of premises in accordance with the *Local Government Act 1993*.

The Council inspects adult entertainment and sex industry premises to determine compliance with conditions of development consent. The Council also investigates complaints about, and may commence legal proceedings against, premises operating without development consent or in non-compliance with conditions of consent.

DISCLAIMER

The information contained here is a guide only. It is recommended that the advice of a Council Officer contacted through Council's One Stop Shop or Customer Service Centres, is obtained before submitting a formal application.

1.2

Planning framework

In short, *Sydney Local Environmental Plan 2012 (Sydney LEP 2012)* is the principal planning instrument within the City of Sydney and has been prepared in accordance with the requirements of the Environmental Planning and Assessment Act 1979. It contains the goals, objectives, zones, and development controls for the local government area. Sydney Development Control Plan 2012 (Sydney DCP 2012) supports and compliments the provisions of the LEP by providing more detailed development controls. Together they comprise The City Plan and are available from the City's website at www.cityofsydney.nsw.gov.au.

Council's guide to lodging a development application provides advice on the process of submitting a development application to Council. This guide and development application forms are available from the 'One Stop Shop' and the City's website at: www.cityofsydney.nsw.gov.au.

1.3

Preparing a development application

When preparing a development application the following must be completed:

- (1) A *Development Application* form, which must include:
 - (a) *Owners Consent*: as with all development applications, the written consent of the premises owner(s) to operate as an adult entertainment or sex industry premises is required (including the Owners Corporation, as relevant).
- (2) *Statement of Environmental Effects*, which includes the following:
 - (a) Proof of permissibility of the proposed use within the zone - the applicant will need to contact the City to determine which environmental planning instrument addresses their site, and that the proposed use is permissible within the zones set out in the relevant environmental planning instrument. You are advised to contact the Duty Town Planner at the One Stop Shop or Customer Service Centre for more information;
 - (b) Assessment of the proposed use against any other relevant sections of this DCP or policies of Council. Again, the City's Duty Town Planners may assist, or the applicant may need to speak to the relevant Area Planning Manager; and
 - (c) Specific information as to the operation of the proposed use, including:
 - (i) Number and role of all staff;
 - (ii) Description of the activities that are proposed to be undertaken at the premises;
 - (iii) Hours of operation;
 - (iv) Number of rooms in the premises; and
 - (v) Identification of the rooms to be used for the proposed activities.
 - (d) A separate document, being the *Plan of Management* for the proposed premises, must also be provided in addition to the *Statement of Environmental Effects*. The information required within a *Plan of Management* is contained within Sydney DCP 2012.
 - (e) A waste management plan including information on the arrangements for the disposal of general waste, recycling and (any) clinical waste.
 - (f) *Plan Information*: plans or drawings clearly showing the following information must be provided for all development applications. The information may be included in Statements of Environmental Effects or Plans of Management where appropriate:
 - (i) Location plan showing distance in metres from the boundaries of residences, churches, primary or secondary schools, day care or child minding centres, parks and playgrounds or any other place frequented by children within 75 m of the site;
 - (ii) Site plans and floor plan including the use of each room and a unique number allocated to each working room or performance area where applicable. The room number should correspond to the proposed activities information provided in the Statement of Environmental Effects;

- (iii) Entrances to and exits from the site, including a nominated “primary access”;
 - (iv) Reception, assessment and visitor viewing areas (where relevant);
 - (v) Areas to which access is restricted;
 - (vi) Location, number and layout of parking spaces;
 - (vii) Premises signage or street number;
 - (viii) Details of the existing and proposed external lighting;
 - (ix) The number and location of staff and visitor sanitary facilities including toilets, showers and hand wash basins;
 - (x) Details of any spa pools, spa baths or swimming pools; and
 - (xi) Details of security systems including video cameras and monitors, intercoms and duress alarms;
 - (xii) Details of food preparation and storage areas; and
 - (xiii) Details of garbage and recycling facilities, linen and other storage areas, and safe needle disposal facilities.
- (g) If *building* works are included - an application for a construction certificate (usually lodged after development application approval).

Notes

- (1) If the proposed adult entertainment or sex industry premises are located in a new building or involves alterations and additions to an existing building architectural plans are required clearly showing the new work. An application for a construction certificate may also be required. Applicants are encouraged to contact a building consultant/certifier where works are proposed, or for a change of building use, so as to ascertain if increased fire safety measures (such as stairs, sprinklers or emergency facilities) are necessary. Certain uses may also require a Place of Public Entertainment Licence and advice on these requirements should be sought from Council.

1.4

Operation and management

Effective good management and operation of adult entertainment and sex industry premises is fundamental to limiting any detrimental impact on the amenity of the neighbouring premises, in reducing the impact on the character of the area, and for ensuring the safety and security of all staff and visitors. A Plan of Management can assist in identifying the potential impacts and the measures to be taken to reduce these, and in clearly defining responsibilities and procedures. A Plan of Management is required for all adult entertainment and sex industry premises.

1.5

Health service access and inspections

The operators of the adult entertainment or sex industry premises must provide reasonable access to and facilities for authorised staff from health services and other agencies to provide information and educational activities to support the health and safety of staff and visitors to the premises. Evidence of access arrangements for the attendance of health service providers should be identified in the Plan of Management.

The *Work Health and Safety Act 2011* allow authorised representatives of WorkCover NSW to enter and inspect premises for compliance with occupational health and safety issues.

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

1.6

Sanitary facilities

Operators must provide adequate sanitary facilities for staff and visitors in accordance with the following:

- (1) All adult entertainment and sex industry premises must provide access to a toilet and hand basin located within, adjacent to or accessible from the premises;
- (2) All hand wash basins must be provided with an adequate supply of portable 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; and
- (3) Warm water systems must comply with the requirements of the Public Health Act 1991 and Public Health (Microbial Control) Regulations 2000.

1.7

Cleaning and general cleanliness

The premises must be kept in an adequate state of cleanliness and repair at all times. Cleaning procedures should be detailed in the plan of management. The regular use of a contract cleaning service is recommended, with any required spot cleaning carried out by staff. Spot cleaning is a continuous cleaning regime where staff inspect the premises including the surfaces within all working rooms, performance areas and areas where sexual activity takes place in response to the level of use.

Particular attention should be paid to the cleaning and disinfecting of showers and toilets. These fixtures are subject to mould growth and have the potential to accumulate and spread fungi. The manager must ensure that sanitary facilities (baths, showers and toilets) are cleaned and disinfected on a regular basis, preferably with a hospital grade disinfectant.

1.8

Provision of cleaning and drying facilities, equipment and products

Adequate cleaning and drying facilities and equipment must be provided in all adult entertainment and sex industry premises, including:

- (1) A cleaning sink, in addition to the staff room and client facilities;
- (2) Pump action soap for all hand wash basins and showers;
- (3) Either single use towels, linen hand towels (provided they are replaced after use) or air hand dryers to all required hand wash basins; and
- (4) Hospital-grade disinfectants (containing sodium hypochlorite-based disinfectant) and detergents; and
- (5) Cleaning equipment, for example sponges, mops, and buckets.

1.9

General waste

There must be adequate provision for the disposal of general waste. Facilities for waste disposal must be provided in accordance with Council's *Policy for Waste Minimisation in New Developments* and the following requirements:

- (1) All waste containers must be capable of being kept clean and be waterproof; and
- (2) Disposable plastic liners are to be used in these waste containers.

General waste containers are to be stored and collected from within the site, and, in accordance with the City's relevant provisions for commercial waste, placed in a public place for collection.

1.10

Sharps

To minimise the risk of needlestick injury, all premises should provide adequate sharps disposal units and systems for safe disposal.

Disposal units must be non-reusable sharps containers that comply with Australian Standard 4031:1992. These units must be located adjacent to all areas where the sharps are generated, preferably in, or around the toilet area, or where there is access to running water.

Where the units are located in communal or publicly accessible areas of the premises, such as staff room or toilet, the unit should be secured, preferably by being fixed to the wall.

Final disposal must be at or through a licensed waste contractor. Evidence of safe disposal and staff training must be identified in the Plan of Management.

1.11

Skin penetration

Skin penetration procedures include performing piercings, cuttings, tattooing and waxing. If skin penetration procedures are conducted then there must be full compliance with Part 3 of the *Public Health (Skin Penetration) Regulation 2000* and the NSW Department of Health's Guidelines on Skin Penetration (Sept 2001) and the premises will be listed on the City's Skin Penetration Register.

1.12

Noise

The use of the premises must not give rise to:

- (1) The emission of an "Offensive Noise"; or
- (2) Transmission of vibration to any place of different occupancy; or
- (3) An indoor sound pressure level in any place of different occupancy greater than 3dB(A) above the L90 background level of any affected property between the hours of 7am to midnight daily and 0dB(A) above the L90 background between midnight and 7am.

An "Offensive Noise" is defined in the *Protection of the Environment Operations Act 1997*.

1.13

Ventilation and lighting

The premises must be ventilated in accordance with the requirements of the Building Code of Australia and Australian Standard 1668 Parts 1 and 2. The requirement is for air handling systems that ventilate enclosures by mechanical means in the absence of natural ventilation.

The premises must be provided with adequate lighting in accordance with Australian Standard 1680.1 and 1680.2. The requirement includes the creation of visual conditions conducive to the efficient and comfortable undertaking of the work task, or appropriate to work tasks and activities specific to certain applications.

Specific lighting levels may be required for certain types of premises, including brothels and sex on premises venues.

1.14

Bars and food preparation areas

A food business is defined as any enterprise or activity that involves the handling of food intended for sale, or the sale of food, regardless of whether the business, enterprise or activity concerned is of a commercial, charitable or community nature or whether it involves the handling or sale of food on one occasion only.

Any adult entertainment and sex industry premises that include the handling and sales of food must comply with the following provisions:

All bars and food preparation areas, which are used for preparing and providing food for visitors must be constructed, fitted out and finished in compliance with the Food Regulation 2001, Food Safety Standard 3.2.3 and Australian Standard 4674–2004: Design Construction and Fit-out of Food Premises; and

In accordance with food safety standards, all food businesses in the state must provide the NSW Food Authority with details of their business, which may be done manually or on-line at www.foodnotify.nsw.gov.au.

1.15

Water cooling and water systems

Premises with water cooling or warm water systems must, under the Public Health (Microbial Control) Regulation be registered with the City's Health Unit. Evaporative cooling systems are not required to be registered.

1.16

Disinfection of swimming pools, spa pools and spa baths

1.16.1 Swimming pools and spa pools

A "Spa Pool" is a pool fitted with a water recirculatory system and/or an air injection system and a water filter, and is not emptied after each use.

Swimming pools and spa pools provided within a sex industry premises must comply with the following provisions for cleaning and management:

- (1) Swimming pools and spa pools must comply with the NSW Department of Health's Public Swimming Pool and Spa Pool Guidelines;
- (2) Swimming pools or spa pools must be disinfected by a method recommended by NSW Department of Health. These methods include the use of chlorine, bromine and salt water chlorination (refer also to the NSW Department of Health's Protocol for Minimising Risk of Cryptosporidium Contamination in Public Swimming Pools and Spa Pools 1999);
- (3) Spa pools must be equipped with a continuous disinfectant dosing control system that maintains the level of disinfectant;
- (4) An accurate kit must be kept on the premises for the testing of pool water. The kit must be able to determine the concentration of free chlorine, total chlorine, total bromine, PH, reserve alkalinity and temperature;
- (5) Tests must be conducted on every swimming pool or spa pool before the pool or spa is opened each day, and every four (4) hours when the pool or spa is in use and a register or log book must be used to record the results of every test of the pool or spa;
- (6) Spa pools must be drained regularly so they can be satisfactorily cleaned and refilled with fresh water;
- (7) The temperature of the water in a swimming pool or spa pool should not exceed 38°C; and

- (8) Officers of the City and the NSW Department of Health may carry out periodic tests of the chemical and bacteriological quality of the water and check log books of pool testing results to ensure the pool water is suitable for bathing purposes.

1.16.2 Spa baths

A spa bath is a domestic type bath fitted with a water recirculation system and/or an air injection system. A water heater may be incorporated in the system, but a water filter is not required. 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.

1.17

Additional health standards for premises providing douching facilities

The potential for spreading micro-organisms from a douching facility is extremely high. If douching facilities are provided, the following provisions will apply:

- (1) Douching facilities are to be installed in accordance with Sydney Water's requirements for cross connection control and backflow prevention systems. Such facilities must comply with Australian Standard 3500 and be registered with Sydney Water;
- (2) Douching facilities are to be installed and certified to Australian Standard 3500 by specifically accredited plumbers and yearly maintenance inspections are to be conducted and certified to Australian Standard 3500 by a specially accredited plumber. All documentation, including yearly maintenance inspection documentation, must be kept on the premises and be available on demand to authorised officers;
- (3) A thermostatic mixing valve should be installed to control the temperature of water and be registered on the City's Regulated Systems (Legionella) Register and comply with the *Public Health (Microbial Control) Regulation 2000*;
- (4) The installation, operation and maintenance of the thermostatic mixing valve must be in accordance with the *Public Health (Microbial Control) Regulation 2000*;
- (5) A separate toilet must be provided at the douching facility that is available for use by clients undertaking douching only;
- (6) Clients using the douching room must be provided with single use colonic tubing;
- (7) A separate waste bin with a lid must be provided in the douching room/facility for the disposal of the used single colonic tubing and this waste bin must be emptied regularly. The waste bin should be designed so as used tubes cannot be accessed by visitors after disposal;
- (8) The douching rooms should be cleaned between each use and must be incorporated in spot cleaning procedures;
- (9) The douching facility must contain a separate hand basin and be provided with liquid soap and hand drying facilities, being air-drying, or disposable single use towels; and
- (10) The douching facility must be distinctively separated from any other facility or activity area within the premises.

1.18

Additional health standards for all types of brothels

The premises must operate in compliance with their responsibilities as identified in the WorkCover NSW's Health and Safety Guidelines for Brothels in NSW 2001. The following standards apply in addition to the prior general health standards.

1.18.1 Sanitary facilities

Operators must provide adequate sanitary facilities for staff and visitors. In addition, brothels must address the following provisions:

- (1) All sanitary facilities are to be self contained and located within the premises;
- (2) Each working room should contain its own sanitary facilities;
- (3) If design or building constraints prevent the provision of adequate sanitary facilities in, or adjacent to, the working rooms, then these facilities must be provided elsewhere in the premises and should aim to maximise access to these facilities from working rooms;
- (4) As a guide, one toilet, hand wash basin and shower would be sufficient to serve three working rooms, or an operation of three sex workers, and must be separate from and accessible to all working rooms. Ensuite facilities attached to a single working room would not be considered suitable;
- (5) In brothels with two or less working rooms, the sanitary facilities for clients can be shared with staff sanitary facilities where they are located outside of the staff areas;
- (6) If spa pools, saunas or steam rooms are proposed then additional shower facilities will be required; and
- (7) Brothel working rooms containing a spa pool must also provide a shower within the same room.

1.18.2 Linen and mattresses

The provision and management of linen in brothels must comply with the following:

- (1) The premises operator must provide clean linen (or a clean bed cover) and clean towels for the use of each client;
- (2) All linen, including towelling and other bed coverings which come into contact with clients or staff must be changed immediately after each use;
- (3) If towels or similar bed coverings are used, they must be of sufficient size to prevent body contact with bed linen that is not intended to be changed after each client;
- (4) Should any contact and/or contamination from body fluids occur, affected bed linen must be changed;
- (5) Visual inspections of unchanged bed linen must be conducted after each use;
- (6) All mattresses contaminated by body fluids must be changed. Alternatively mattresses can be fitted with washable non-permeable mattress covers;
- (7) If soiled, the mattress cover and the linen must be removed and washed prior to re-use; and
- (8) Used and clean linen must be stored separately so as to avoid cross-contamination.

1.18.3 Cleaning of linen and laundry facilities

It is recommended that private contractors be used to launder towels, sheets, and linen. Whether laundering is carried out on the premises or off-site, adequate equipment must be used. The following steps are to be addressed for the cleaning of linen:

- (1) An adequate number of approved receptacles must be provided for the separate storage of clean linen and used linen;
- (2) Linen should be washed in a hot water wash that is at water temperature of 70°C using laundry detergent; and
- (3) All items of linen should be thoroughly dried before re-use.

1.18.4 Provision, storage and use of condoms, safe sex products and other equipment

The practice of safe sex must be the basis of operation for all sex service premises. Sex service premises must only use safe sex equipment that complies with the relevant Australian Standards. The following provisions address the issues of providing, storing and cleaning sex service equipment:

- (1) Condoms, dental dams and gloves (or any other approved safe sex products) must be stored away from light and heat, which may contribute to premature deterioration;
- (2) The premises operator must ensure that workers are well-informed of the need to use condoms, dental dams, gloves (or any other approved safe sex products) and water based lubricant, as well as being instructed as to their use;
- (3) Prior to usage, condoms and safe sex products should be checked to ensure they have not passed their expiry (use by) date, and out-of-date equipment should be disposed of;
- (4) The premises operator must provide an adequate supply of condoms of a variety of sizes, dental dams, gloves (and any other approved safe sex products) and water based lubricants, free of charge to the sex worker and their clients;
- (5) Water based lubricant should be provided in individual sachets or pump pack. If using a tube, sex workers and clients should wear single use disposable gloves to prevent contamination;
- (6) Condom vending machines selling safe sex equipment are not permitted as the sole means of supply;
- (7) In safe house brothels, the premises operator must distribute required equipment to the sex worker at the time of entering the premises;
- (8) Any sex toys or related equipment must be covered by a new condom for each partner. After use, the condom must be removed and safely disposed of, with the equipment cleaned using detergent and water, followed by disinfectant;
- (9) Sex workers must wash their hands thoroughly after disposing of used condoms;
- (10) It is recommended that equipment such as sex toys are not shared between workers, and that each sex worker retains their own personal set of equipment separate to those used on clients;
- (11) To clean after use, equipment must be scrubbed with a neutral detergent and warm water, and dried prior to re-use;
- (12) To disinfect after cleaning, equipment must be disinfected by wiping with a solution of 70% alcohol, followed by rinsing and drying prior to re-use;

- (13) Cleaning and disinfection should be compatible with the manufacturer's instructions;
- (14) A separate container should be provided for contaminated equipment such as sex toys, within the working room. This container must be cleaned after use;
- (15) Cleaning removable contaminated equipment should be done in the cleaning sink and not in the working room or staff facilities; and
- (16) Due to difficulties in cleaning, using chains in association with sling room facilities is not recommended, and chains should be replaced with materials that enable easy and effective cleaning.

Note:

If the use of chains is proposed, the chains must be inserted into plastic tubing so that the chains are completely sealed and impervious to moisture and bodily fluids. Chains may also be modified in additional ways if they comply with the above performance criteria for cleaning.

1.19

Education of sex workers and clients

It is necessary to enable sex workers to perform their work in a manner that is safe, with minimum risk to health. The premises operator must provide current information to staff in brothels about sexually transmitted infections. Specifically:

- (1) The premises operator must provide written, current information about the transmission of sexually transmissible infections (STIs). Current health information must also be available in clients areas;
- (2) If the brothel is staffed by sex workers of a predominantly non-English speaking background, then the premises operator must provide current written information about the transmission of STIs in the relevant language(s);
- (3) The premises operator must take reasonable steps to ensure the medical accuracy of any information about sexually transmissible infections provided for the benefit of clients and/or sex workers; and
- (4) The operator, manager and premises owner must take reasonable steps to ensure that they exercise their responsibilities in compliance with Section 79 of the *Public Health Act 2010*.

Note:

Health service providers and other agencies may provide more assistance in this regard. Refer to Section 1.25 for further information and contact details of health service providers.

1.20

Health of sex workers

To ensure the continuing good health of sex workers in brothels:

- (1) It is recommended that sex workers be immunised against hepatitis A and B;
- (2) Risk management protocols are to be prepared and implemented as part of any Plan of Management to assist sex workers and staff to manage risk exposures such as blood and body fluid splashes, needle stick injuries and the like;

- (3) It is desirable that sex workers attend a sexual health centre or private doctor for sexual health assessment, counselling and education appropriate to individual needs. Frequency of assessment is a matter for determination by the individual sex worker in consultation with his/her clinician;
- (4) Sexual health certificates of attendance should not imply freedom from STIs nor should sexual health certificates of attendance be shown to clients; and
- (5) There should be no impediment to sex workers taking time off for health reasons.

1.20.1 Examination of clients

The examination of clients must not be seen as an alternative to, or lessening of the need for, observing safe sex practices. Before any sexual encounter each client should be examined by the sex worker to detect any visible evidence of sexually transmissible infections. The basic requirements and procedures for such examinations include:

- (1) Adequate lighting must be provided for such examinations;
- (2) A minimum luminance of 320lx must be provided for examinations, in accordance with Australian Standard 1680;
- (3) The premises operator must ensure sex workers are adequately trained to carry out examinations;
- (4) Health service providers and other agencies may provide training in this regard (refer to Section 1.25 for a list of health service providers); and
- (5) Any client with evidence of a sexually transmissible infection should be offered a reduced service, or refused any sexual contact and referred for medical consultation.

Note:

Sex workers should receive written information about immunisation and sex health services, and should be made aware that certain sexually transmissible conditions may have no visible symptoms (e.g. chlamydia) and can be carried and transmitted. The best action is medical testing and to always follow safe sex practices.

1.21

Additional health standards for sex on premises venues and swingers clubs

The premises must operate to the minimum standards contained in the NSW Communicable Diseases Health and Safety Guidelines for Sex on Premises Venues issued by NSW Department of Health in 2002.

1.21.1 Sanitary facilities

Operators must provide adequate sanitary facilities for staff and visitors. In addition, sex on premises venues must address the following provisions:

- (1) Adequate sanitary facilities (toilet, hand wash basin, shower) must be provided on the premises together with liquid bactericidal soap and single use towels or air hand dryers;
- (2) These sanitary facilities should be located adjacent to areas where sexual activity takes place, such that visitors do not have to move from a sexual activity area to a non-activity area to use these facilities;

- (3) Sanitary facilities are to be designed to discourage their use for sexual activities;
- (4) Hand washing facilities must be provided for use by visitors within the sexual activity areas;
- (5) Backrooms which are ancillary to restricted premises are exempt from providing shower facilities;
- (6) In backrooms, hand washing facilities must be provided within the pay-for-entry club area; and
- (7) Dispensers providing bactericidal hand wipes are recommended for all rooms, booths, cubicles and sexual activity areas.

1.21.2 Cleaning and general cleanliness

The interior of the premises must be constructed of durable, impervious materials that are easy to be kept clean.

Applicants should refer to the NSW Communicable Diseases Health and Safety Guidelines for Sex on Premises Venues, which provide detailed cleaning techniques and recommendations. The following provisions outline the requirements for cleaning in sex on premises venues:

- (1) Cleaning should be carried out regularly with particular attention to all surfaces where sexual activity does or is likely to occur;
- (2) Consideration should also be given to providing appropriate cleaning and disinfection agents (including anti-bacterial wipes) for use by clients in cubicles;
- (3) At least one full daily cleaning of the premises must be conducted;
- (4) Spot cleaning must be conducted on a regular basis as needed and may be required more frequently during peak periods;
- (5) To enable adequate cleaning, the premises operator must maintain staff that are allocated to cleaning at all times whilst the premises are open;
- (6) This requirement for cleaning means that at least two staff must be on the premises at all times when spot cleaning is required unless the counter area can be secured and monitored, as the front counter/reception employee cannot also be responsible for spot cleaning duties;
- (7) Due to difficulties in cleaning, using chains in association with sling equipment is not recommended, and chains should be replaced with materials that enable easy and effective cleaning.

Note:

If the use of chains is proposed, the chains must be inserted into plastic tubing so that the chains are completely sealed and impervious to moisture and bodily fluids. Also, chains may be modified in additional ways if they comply with the above performance criteria for cleaning;

- (8) A cleaning register must be established and kept on the premises at all times and must be available on demand to authorised officers; and
- (9) This register must include but not be restricted to: date/time of all cleaning activities; printed name and signature of the employee(s) conducting the cleaning; and notation of specific areas requiring spot cleaning attention.

1.21.3 Provision and use of condoms, dental dams, lubricant

The following provisions advise as to the provision and use of condoms, dental dams and lubricant in sex on premises venues:

- (1) The premises operator must ensure that staff promote the use of condoms and water based lubricant and must make them freely available to all visitors in all rooms, booths, cubicles and sexual activity areas;
- (2) Condoms (of varying sizes), dental dams and gloves should be made available upon request and signage to this effect should be displayed at the front counter;
- (3) Condoms and water-based lubricants must be easily visible and accessible from all cubicles. Bright colouring of condom dispensers may aid in visibility;
- (4) Supplies of condoms and water-based lubricants should be checked at regular intervals (hourly is recommended) to ensure adequate supplies are available; and
- (5) To maintain the integrity of supplies of condoms and lubricants it is recommended that they are stored in lockable and tamperproof dispensers.

1.21.4 Education of staff and visitors

The premises operator must ensure that that safe sex and sexually transmitted infections information, and staff training are provided, and must address the following provisions:

- (1) Safe sex and sexually transmitted infection information must be easily accessible and visible to all visitors, preferably located close to exit doors; and
- (2) Staff are made aware of information on, and health practices regarding sexually transmissible infections, to enable them to refer visitors to appropriate organisations/resources.

Note:

Sexual health and HIV/AIDS information is accessible from health service providers and other organisations, who regularly stock updated information for distribution (see Section 1.25 for details of health service providers).

1.21.5 Waste receptacles

Adequate waste facilities refers to water-proof bins fitted with removable plastic liners or mesh bins. The applicant should also refer to the prior provisions for the storage and handling of waste. The following criteria relate to requirements for waste receptacles in sex on premises venues:

- (1) Adequate waste receptacles must be provided in all rooms, booths, cubicles or any place where sex is likely to take place; and
- (2) In smaller areas where lack of space or fouling by visitors, are possibilities, a waste receptacle must be attached in a convenient position on the wall of the room, booth or cubicle.

1.21.6 Lighting

It is acknowledged that sex on premises clients prefer an atmosphere created by low level lighting and darkness. However, it is imperative that adequate lighting levels are provided so that the clients are able to locate and use safe sex resources effectively. Through the fitting of user adjustable dimmer switches it is expected that clients will utilise the lighting for minimum periods only and overall the low level lighting atmosphere will be maintained.

Following are further criteria for lighting to be addressed in the development of sex on premises venues:

- (1) Adequate lighting must be provided in accordance with Australian Standard 1680;
- (2) Levels of lighting must be adequate to highlight safe sex messages and to easily locate condom and lubricant dispensers;
- (3) Adjustable lighting, preferably dimmer switches, must be provided in every room, booth or cubicle; and
- (4) Adequate lighting with a minimum luminance level of 80lx must be achieved on all potentially soiled surfaces, including the junction of floors and walls, to allow easy and effective spot and general cleaning. Zoned lighting or the incorporation of adjustable lighting is ideal for spot cleaning, and high powered torches may be utilised as an additional method.

1.22

Additional health standards for bondage and discipline premises

The following standards apply to any premises providing bondage and discipline services in addition to the prior general health standards of the DCP.

1.22.1 Facilities

In addition to the sanitary facility requirements for brothels, the operator must ensure that in all rooms/areas where bondage and discipline activities are administered that:

- (1) A hand wash basin is provided;
- (2) First Aid kits are provided and stored in an area that is not accessible to the public; and
- (3) Flooring, walls, shelves and any equipment used should be smooth, impervious and easy to clean.

1.23

Additional health standards for strip club premises

The following additional standards apply to premises providing striptease acts, erotic dancing, tabletop or podium performances, private dancing, peepshows, or nude or semi-nude bar/waiting staff.

1.23.1 General

Striptease acts or other types of performance may pose potential health risks from the transfer of body fluids between performers and audience.

1.23.2 Cleanliness

The performance areas of the premises must be constructed of durable, impervious materials that are easy to be kept clean. Stages and the like must be built with non-slip materials to ensure the safety of staff. Oil-based products should not be used by performers. Performers must use a mat or floor rug, to prevent their skin coming into contact with the stage or props.

Cleaning should be carried out regularly with particular attention to all stage, platform, pole, table, podium and private performance areas used by performers. These performance areas must be cleaned on a daily basis and should be assessed for cleaning after every performance, with spot cleaning occurring as necessary and as frequently as possible. In premises with peep shows and booths the additional Health Standards for Restricted Premises (Section 1.24) shall apply.

1.23.3 Equipment and sex toys

In premises where performances use equipment/toys which pose health risks, the premises must comply with all requirements in this guideline relating to the provision, storage and use of condoms, safe sex products and other equipment (1.18.4).

1.24

Additional health standards for restricted premises

The following standards apply in addition to the general health standards within this guideline.

The use of private viewing booths or cinema rooms, which are used or intended to be used for masturbation, may pose potential health risks from the transfers of body fluids between visitors through the contamination of surfaces by body fluids. Consideration must be given to this in the Plan of Management.

1.24.1 Sanitary facilities

Operators must provide a hand wash basin adjacent to, or in close proximity of booth and cinema areas, and for the use of cleaning staff. Alternatively, dispensers that provide hand wipes should be provided in the booths.

1.24.2 Cleaning

All booths and cinema areas must be constructed of durable, impervious materials that are easy to be kept clean. All booths and cinema areas must be cleaned on a daily basis with spot cleaning to occur as necessary. It is recommended that booths be checked for cleanliness after each use. Cleaning should include floor/walls, doorknobs/handles and vinyl cushions.

1.24.3 Waste receptacles

Adequate waste receptacles must be provided in all booths and cinema areas. In smaller booths where lack of space or fouling by visitors is a concern then they must be attached in a convenient position on the wall of the booth.

1.25

Relevant health service providers, regulatory agencies and groups and organisations

- (1) Sexual Health Centres:
 - (a) are public services operated by Area Health Services (Part of the NSW Department of Health) and provide assistance relating to the sexual health of sex workers, clients of sex workers and the community:
 - (i) Sydney Sexual Health Centre, 9382 7440;
 - (ii) Kings Cross (Kirketon Road Centre), 9360 2766; and
 - (iii) Camperdown RPA Hospital Sexual Health Clinic 9515 3131.
- (2) Regulatory Agencies:
 - (a) the NSW Department of Health is responsible for investigating public health related complaints about sex industry premises as set out in the WorkCover NSW's Health and Safety Guidelines for Brothels 2001:
 - (i) NSW Department of Health, 9391 9000;
 - (b) Public Health Units are public services operated by Area Health Services (Part of the NSW Department of Health). The Director Public Health Unit or delegate should be the first point of contact for complaints related to sexually transmissible infections and other public health related complaints as set out in the WorkCover NSW's Health and Safety Guidelines for Brothels 2001:
 - (i) Randwick Public Health Unit; 9382 8333, and
 - (ii) Camperdown Public Health Unit, 9515 9420.
 - (c) WorkCover 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 Occupational Health and Safety Act 2000, as well as the Workers Compensation Act 1987 and Workplace Injury Management and Workers Compensation Act 1998:
 - (i) WorkCover NSW 13 10 50,
- (3) Other Agencies
 - (a) The Sex Workers Outreach Project (SWOP) is a community based organisation that aims to minimise the transmission of sexually transmitted infections and HIV/AIDS in the NSW sex industry, as well as providing a range of health, safety, support and information services for sex workers, management, clients and partners of sex workers:
 - (i) Sex Workers Outreach Project (SWOP), 9206 2166.
- (4) AIDS Council of NSW (ACON) is a health promotion organisation based in the gay, lesbian, bisexual and transgender communities with a central focus on HIV/AIDS. ACON provides HIV prevention, health promotion, advocacy, care and support services to members of those communities including Indigenous people, injecting drug users, sex workers and all people living with HIV/AIDS:
 - (a) ACON, 9206 2000

- (5) Services providing information, advice and resources relating to injecting drug users and needle disposal services:
 - (a) Kirketon Road Centre, 9360 2766
 - (b) Redfern Harm Minimisation Program, 9395 0400
 - (c) 24 Hour Needle Clean Up, 1800 633 353.

1.26

Health information

Fact sheets relevant to the adult entertainment and sex industry premises are available from NSW Department of Health at www.health.nsw.gov.au. Health information referrals are available from the City's Safe City Unit. Useful information includes:

- (1) *Health and Safety Guidelines for Brothels* (2001), WorkCover NSW
- (2) *NSW Communicable Diseases Health and Safety Guidelines for Sex On Premises Venues* (2002), NSW Department of Health
- (3) *Guidelines on Skin Penetration* (2001), NSW Department of Health
- (4) *Skin Penetration Code of Best Practice* (2001), NSW Department of Health
- (5) *Protocol for Minimising Risk of Cryptosporidium Contamination in Public Swimming Pools and Spa Pools* (1999), NSW Department of Health
- (6) *Public Swimming Pools and Spa Pool Guidelines* (1996), NSW Department of Health
- (7) *Sex Industry Legal Kit* (2010) Sex Workers Outreach Project.
- (8) Code of Practice for Sex On Premises Venues, ACON

1.27

Summary of legislation relevant to adult entertainment and sex industry premises

Further details can be found at www.legislation.nsw.gov.au

- (1) *Environmental Planning & Assessment Act 1979*, Planning powers of Councils and evidentiary requirements for the Land and Environment Court.
- (2) *Local Government Act 1993*, Enables the enforcement of conditions of consent and inspections of premises.
- (3) *Protection of the Environment Operations Act 1997*, Offences in relation to excessive environmental impact through uses, for example, noise, dumping of waste.
- (4) *Public Health Act 2010*, Offence for person with sexual transmitted infection to have sex without other person's consent.
- (5) *Public Health Regulation 2010*, Guidelines to assist in complying with Public Health Act 2010.

- (6) *Restricted Premises Act 1943* - Defines a brothel. Section 17 outlines powers to seek order to close a brothel. Offence of brothel operation repealed 1996.
- (7) *Crimes Act 1900*, defines:
 - (a) sexual intercourse;
 - (b) offences for child (under 18) prostitution; and
 - (c) restrictions of the display of offensive material in restricted premises.
- (8) *Summary Offences Act 1988*:
 - (a) defines prostitution and establishes that it is an offence to:
 - (i) advertise a brothel;
 - (ii) advertise for sex work staff;
 - (iii) run 'massage premises' as a brothel;
 - (iv) film someone to provide sexual gratification, without their consent; or
 - (v) coerce someone to sex work.
- (9) *Work Health & Safety Act 2011 and Work Health & Safety Regulation 2011*:
 - (a) Employers must ensure employee health & safety, and maintain safe work systems.
 - (b) Identifies minimal workplace conditions.
 - (c) Workplace Injury Management & Workers Compensation Act 1998, Employers must maintain workers compensation policy with NSW licensed insurer.
- (10) *Food Act 2003*, Standards for food premises.
- (11) *Anti-Discrimination Act 1977*, Offence to discriminate against or harass any person.
- (12) *Industrial Relations Act 1996*, Employers must meet minimum employment conditions.
- (13) *Workplace Surveillance Act 2005*, Requirements for use of workplace surveillance systems.
- (14) *Weapons Prohibition Act 1998*, Offence to possess and use any weapon listed on Schedule 1 of the Act (includes flail, whip, cat o' nine tails & handcuffs).
- (15) *Criminal Code Act 1995*, Offences relating to sexual servitude.
- (16) *Classification (Publications, Films and Computer Games) Enforcement Act 1995 (NSW)*, Restrictions and requirements for the design, access, staffing and signage for premises.

1.28

Council contact details

Should you require further information or assistance, please contact the Duty Town Planner at the 'One Stop Shop':

Tel: 02 9265 9333 (24 hours, 7 days)

Fax: 02 9265 9222

Email: council@cityofsydney.nsw.gov.au or at one of the City's Customer Service Centres:

Town Hall, One-Stop-Shop City of Sydney, Town Hall House, Level 2, 456 Kent St, Sydney NSW 2000, (02) 9265 9333, Monday to Friday 8am to 6pm

Glebe Library and Customer Service Centre, 186 Glebe Point Road (cnr Wigram Rd), Glebe NSW 2037, Monday to Friday 9am to 5pm

Green Square, Customer Service Centre 100 Joynton Avenue, Zetland NSW 2017, (02) 9265 9333, Monday to Friday 9am to 5pm

Kings Cross, Customer Service Centre, 50-52 Darlinghurst Road, Kings Cross, NSW 2011, Monday to Friday 9am to 5pm, Saturday 9am to 12noon

Redfern Customer Service Centre, 158 Redfern Street, Redfern NSW 2016, Monday to Friday 9am to 5pm, Saturday 9am to 12noon