PART B9
SEX SERVICES PREMISES
SECTION 1–INTRODUCTION

Bankstown Local Environmental Plan 2015 is Council's principal planning document to regulate effective and orderly development in the City of Bankstown. The LEP provides objectives, zones and development standards such as lot sizes and floor space ratios.

Part B9 of Bankstown Development Control Plan 2015 supplements the LEP by providing additional objectives and development controls that regulate the activity of sex services premises within the industrial zones of the City of Bankstown to the benefit of operators, workers and the community.

Part B9 applies to certain land within Zone IN1 General Industrial and Zone IN2 Light Industrial where the provisions of Bankstown Local Environmental Plan 2015 allow sex services premises.

Council prepared Part B9 in response to the proclamation of the Disorderly Houses Amendment Act 1995, which decriminalised sex services premises, making them a legitimate land use under planning law. The provisions within Part B9 will be used to assess the appropriateness of development applications to conduct a sex services premises on particular sites.

In most circumstances, any consent granted to a sex services premises will have an initial maximum life of one year. At the end of this period, Council will examine the impact of the sex services premises on the neighbourhood and compliance with conditions of consent. If the premises is having a significant negative impact on the amenity of the area, Council may decide not to re-issue consent. This impact would ordinarily be determined on the same basis as the closure of a sex services premises.

Under Part B9, Council must be notified if any details of the development application change. For example, hours of operation and number of employees. If the change is significant, it may be necessary to submit a new development application. When the operator of a sex services premises changes, the operator must notify Council immediately.

All development applications for sex services premises will be referred to the NSW Police.

Objectives

The objectives of Part B9 of this DCP are:

(a) To have the location of sex services premises in areas which are appropriate for the use.

(b) To have development controls that address the public health and safety of sex services premises.
Roles of State Government and Council

Council will regulate sex services premises with the cooperation of the NSW Police and the NSW Ministry of Health. The responsibilities of these agencies are:

(a) NSW Police

All development applications for sex services premises will be referred to the NSW Police for comment prior to determination. Once a sex services premises has been approved, the Police will be responsible for any investigation into alleged criminal activity. This includes drug related activities, violent crime or underage prostitution.

(b) Public Health

The NSW Ministry of Health will be responsible for the maintenance of public health. This includes investigation of complaints relating to public health matters, specifically sexually transmitted diseases and contagious diseases.

(c) Other relevant authorities

Where Council considers it relevant and/or necessary, development applications may also be referred to other authorities or organisations, for example the Sex Workers Outreach Project.
SECTION 2–LOCATION

Consideration

2.1 A matter of consideration is the proximity of the premises to a place of public worship, school, community facility, hospital, medical centre, and any place regularly frequented by children for recreational or cultural activities.

Development controls

The development controls are:

Location

2.2 Sex services premises may not be within reasonable view of a church, school, community facility, hospital, medical centre, and any place regularly frequented by children for recreational or cultural activities (‘reasonable view’ shall be determined taking into account factors such as topography, vegetation, signage, intervening development and similar factors).

2.3 Sex services premises should not be within a 100 metre radius from the boundary of the nearest property containing a sensitive use or used for residential purposes, regardless of the zoning of that property.

2.4 Sex services premises may not front or locate within 100 metres of a state road listed in the table below.

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<tr>
<th>STATE ROAD</th>
<th>FROM</th>
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<td>Boronia Road</td>
<td>Hume Highway</td>
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<td>Stacey Street</td>
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<td>Henry Lawson Drive</td>
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<td>Woodville Road</td>
<td>Hume Highway</td>
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SECTION 3–IMPACT ON NEIGHBOURHOOD

Consideration

3.1 A matter of consideration is whether the operation of a sex services premises is likely to cause a disturbance in the neighbourhood, taking into account other sex services premises operating in the neighbourhood or other land use within the neighbourhood involving similar hours of operation and creating similar levels of noise and vehicular and pedestrian traffic.

Development controls

The development controls are:

Impact on neighbourhood

3.2 Consideration will be given to the impact of sex services premises given activities with similar operating hours in the area. This would include massage parlours, adult bookshops and other restricted premises, licensed premises, pubs / hotels, nightclubs, other sensitive uses and the like. Sex services premises should not locate within 200 metres of this type of use, or within 200 metres of another sex services premises.

SECTION 4–PARKING

Consideration

4.1 A matter of consideration is whether sufficient off–street parking is provided.

Development controls

The development controls are:

Parking

4.2 The minimum number of car parking spaces required for sex services premises is 1.5 car space per service room.

4.3 Stacked parking is not acceptable. Parking areas must be located, designed and lit to maximise safety of workers and clients.
SECTION 5–ACCESS

Consideration

5.1 A matter of consideration is whether suitable access is provided.

Development controls

The development controls are:

Accessibility

5.2 Sex services premises will be regarded in a similar way to any other traffic generating use. Safe vehicle and pedestrian access must be provided appropriate for the size of operation proposed.

5.3 Sex services premises should, wherever possible, provide access for people with disabilities in accordance with the requirements of the Building Code of Australia. Larger establishments (over 5 rooms) must provide a minimum of one room with an ensuite located and designed to be suitable for use by people with disabilities.

SECTION 6–AMENITY

Consideration

6.1 Matters of consideration are:

(a) Whether the operation of the sex services premises causes a disturbance in the neighbourhood because of its size or the number of people working in it; and

(b) Whether the operation of the sex services premises interferes with the amenity of the neighbourhood.

Development controls

The development controls are:

Amenity

6.2 The scale of the operation proposed should be appropriate for the surrounding area. Sex services premises should not cause difficulties with parking, access or safety/security for the surrounding premises.

6.3 No sex services premises must have more than 10 rooms for clients (not including offices, sanitary facilities, storerooms and the like).
6.4 Noise, traffic, and any other relevant factors (depending on the size and nature of the operation proposed) will be assessed with a view to ensuring that the use does not have a negative impact on the surrounding area.

SECTION 7–BUSINESS AND BUILDING IDENTIFICATION SIGNS

Consideration

7.1 A matter of consideration is the types of signs or structures.

Development controls

The development controls are:

Advertising structures

7.2 Flashing signs or lights, or signs which include colours or designs which may distract passing motorists will not be permitted. Signs must not include offensive or suggestive material. Signs should not be erected on any railway frontage of a site, unless this is also the road frontage. Signs shall only be illuminated if it will not cause nuisance to any adjoining properties nor interfere with the amenity of the neighbourhood.

7.3 Only one sign will be permitted per premises and the total permissible area of the sign must not exceed 1.1 square metres. It should clearly indicate the name of the operator, the name of the premises and that entry is prohibited to underage persons. It should be noted that it is illegal under the Summary Offences Act to advertise prostitution services.

SECTION 8–SAFETY AND SECURITY

Consideration

8.1 A matter of consideration is the safety of clients and workers.

Development controls

The development controls are:

Safety and security

8.2 The safety of clients and workers should be protected at all times. Applications submitted should include details on security arrangements to reduce the risk to persons visiting the site. Design of car parks, landscaping and entry areas should facilitate casual or formal observation. Car parks and entrances should be well lit and, where necessary, security staff employed.
8.3 Sex services premises should not locate in an isolated area, unless extensive security arrangements are made. This is to assist in providing a safe environment for clients and workers and to reduce the likelihood that sex services premises will be associated with criminal activities. The assistance of the NSW Police will be sought when assessing this particular aspect of an application.

8.4 The privacy of patrons must be considered through the design and internal layout of the premises.

SECTION 9–VISUAL AMENITY

Consideration

9.1 A matter of consideration is the likely visual or traffic impact (if any) on a main road.

Development controls

The development controls are:

Visual amenity

9.2 Sex services premises are not permitted to front state roads.

9.3 Sex services premises may locate in a complex of industrial units which have an entrance on a state road if the individual unit does not have frontage to a state road, and is located at least 100 metres away from the state road.

SECTION 10–HEALTH

Consideration

10.1 A matter of consideration is whether the health of workers and clients are protected.

Development controls

The development controls are:

Health

10.2 Separate toilet and shower facilities must be provided for staff. Sanitary facilities must be kept clean at all times and include adequate provision of soap dispensers, electronic dryers or single use towels.
10.3 Ensuites must be provided to each room, including a toilet, shower and hand basin. Clean towels must be supplied for every client.

This clause is applied to protect the health of workers and clients. Should it not be met to the satisfaction of Council, then applications may be refused.

SECTION 11–MANAGEMENT ISSUES

Consideration

11.1 Matters of consideration are hours of operation and health.

Development controls

The development controls are:

Management issues

11.2 The hours of operation of a sex services premises must be appropriate for the area and the surrounding uses.

11.3 All sex services premises must comply with the standards for Class 5 buildings (an office building used for professional or commercial purposes) under the Building Code of Australia.

11.4 Mattresses are to be hospital accredited standard.

11.5 Linen must be changed after each client. It must be washed to the standards of a commercial laundry, with water temperatures reaching a minimum of 40 degrees Celsius. Clean and dirty linen must be stored separately. Storage areas should be indicated on the plan accompanying the development application.

11.6 Food preparation areas must be kept clean at all times.

11.7 Spa baths within individual rooms should be emptied, cleaned and refilled after each use. Maintenance of all pools or spa baths must comply with the NSW Ministry of Health’s Guidelines for Disinfecting Public Swimming and Spa Pools.

11.8 Information on safe sex, sexually transmitted diseases and good sexual health practices must be freely available in English and a variety of community languages. This information is to be displayed in a waiting/reception area and be clearly visible to anyone entering the premises. All information provided must be medically accurate.
11.9 Condoms must be provided free of charge by the operator to workers and clients. Supply via condom vending machines is prohibited. Condoms must be stored away from heat and direct light to ensure that they do not deteriorate prematurely.

11.10 Contaminated waste must be collected and disposed of by persons holding the appropriate licence from the relevant public authority. Used condoms must be double bagged and placed in specific and clearly marked waste receptacles on the premises. All sharps must be placed in non reusable sharps containers which comply with AS4031–1992. These containers must be clearly marked and placed in all work rooms and rooms containing sanitary facilities. Details of waste collection must be provided with the development application.

11.11 All premises must comply with any guidelines issued by the NSW Ministry of Health and WorkCover NSW.

11.12 Maintenance of all public swimming pools or spa pools must comply with the NSW Ministry of Health’s Public Swimming Pool and Spa Pool Advisory Document 2013.

SECTION 12–RELATED INFORMATION

Closure of sex services premises

12.1 Council may seek an order of the Court to close a sex services premises in either or both the following circumstances:

(a) operation without consent

For a sex services premises to operate legally, development consent must be obtained from the Council and the details and conditions of that consent must be complied with. If a premises is operating as a sex services premises without consent, or an approved sex services premises has substantially altered its operation, Council will seek an order to close the premises as an unauthorised use. This is to protect both the operators of sex services premises who have sought consent from competition from unauthorised operators and to protect the community from inappropriately located or unregulated premises.

(b) operation having a negative impact on the amenity of the area

If Council receives complaints from residents or occupiers of premises within the vicinity of the sex services premises, or residents whose children use facilities within the vicinity of the sex services premises, Council may take action through the Court to have the premises closed. An application to close a sex services premises must be based on one or more of the following factors:
(i) the proximity of the premises to a church, school, community facility, hospital, medical centre, and any place regularly frequented by children for recreational or cultural activities;

(ii) whether the operation of a sex services premises is likely to cause a disturbance in the neighbourhood when taking into account other sex services premises operating in the neighbourhood or other land use within the neighbourhood involving similar hours of operation and creating similar amounts of noise and vehicular and pedestrian traffic;

(iii) whether sufficient off street parking has been provided;

(iv) whether suitable access has been provided;

(v) whether the operation of the sex services premises causes a disturbance in the neighbourhood because of its size or the number of people working in it; and

(vi) whether the operation of the sex services premises interferes with the amenity of the neighbourhood.

The Court may also take into account any other planning matter which it may consider relevant.

Responsibilities of operators

12.2 The operator of a sex services premises must be responsible for the conduct of their clients in the same way that a publican is responsible for the conduct of their patrons. This particularly applies to the conduct of clients leaving the premises. Operators are also responsible for reporting any suspicion of criminal activity occurring on their premises to the NSW Police.

Making a development application

12.3 The operation of a sex services premises within the City of Bankstown requires development approval. Development applications must be submitted to the Council with the following information:

(a) a plan showing:

   (i) location of the proposed premises, showing the position of the block in relation to any schools, churches, community facilities, hospitals, medical centres or any place regularly frequented by children for recreational or cultural activities (if relevant);

   (ii) the distance to any residential areas or properties used for residential purposes;

   (iii) position of the building on the block of land, including distance from boundaries;
(iv) floor layout of the building, including the proposed use of each room;

(v) location, number and layout of any parking (existing and proposed) on the land;

(vi) location of any landscaping (existing and proposed) on the land;

(vii) location, size, content, colour, illumination and number of any proposed signs;

(viii) details of the ‘shopfront’ treatment, where applicable;

(ix) details of the existing and proposed external lighting.

(b) a written statement including:

(i) number of employees;

(ii) hours of operation;

(iii) general operating procedure, including measures proposed to ensure health and cleanliness standards as contained in this policy are met;

(iv) details on measures proposed to safeguard workers and clients. This should include details of lighting of outside areas, security personnel; and

(v) details for disposal of contaminated waste.

12.4 All applications for sex services premises will be referred to the NSW Police. This is in accordance with the agreement between the Local Government NSW and the NSW Police.