



# Byron Shire Development Control Plan 2014

## Chapter D7 Sex Services Premises



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# Chapter D7 – Sex Services Premises

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## D7.1 Introduction

This Chapter specifies the controls that apply to **sex services premises**.

### D7.1.1 Aims of this Chapter

The Aims of this Chapter are:

1. To identify **sex services premises** as a legal land use that benefits some sections of the community but offends others.
2. To give effect to NSW Land and Environment Court Planning Principles relating to the location of brothels.

### D7.1.2 Application of this Chapter

This Chapter applies to the development or use of land for the purpose of **sex services premises** on land to which Byron LEP 2014 applies.

## D7.2 General Provisions

### D7.2.1 Sex Services Premises

#### Objectives

1. *To ensure that development comprising the use of land or a building for the purpose of sex services is not likely to create significant adverse social impacts in the locality.*
2. *To ensure that the design and character of development or buildings used for the purpose of **sex services premises** are compatible with nearby development and with the existing character of the locality.*

#### Performance Criteria

1. In considering Development Applications seeking consent for **sex services premises**, Council will consider and apply each of the matters contained in the Planning Principle established by the NSW Land and Environment Court in the matter of Martyn v Hornsby Shire Council [2004] NSWLEC 614. Development Applications must address each of the matters contained in the Planning Principle, as follows:
  - a) brothels are a legal land use that benefits some sections of the community but offends others. Most people believe that the exposure of impressionable groups like children and adolescents to the existence of brothels is undesirable. The aim should therefore be to locate brothels where they are least likely to offend. However, criteria for locating brothels should not be so onerous as to exclude them from all areas of a municipality;

- b) brothels should be located to minimise adverse physical impact, such as noise disturbance and overlooking. In this aspect they are no different from other land uses;
  - c) there is no evidence that brothels in general are associated with crime or drug use. Where crime or drugs are in contention in relation to a particular brothel application, this should be supported by evidence;
  - d) brothels should not adjoin areas that are zoned residential, or be clearly visible from them. Visibility is sometimes a function of distance, but not always;
  - e) brothels should not adjoin, or be clearly visible from schools, educational institutions for young people or places where children and adolescents regularly gather. This does not mean, however, that brothels should be excluded from every street on which children may walk;
  - f) the relationship of brothels to places of worship (which are likely to attract people who are offended by brothels) is a sensitive one. The existence of a brothel should not be clearly visible from places where worshippers regularly gather;
  - g) there is no need to exclude brothels from every stop on a public transport route. However, it would not be appropriate to locate a brothel next to a bus stop regularly used by school buses;
  - h) where a brothel is proposed in proximity to several others, it should be considered in the context that a concentration is likely to change the character of the street or area. In some cases this may be consistent with the desired future character, in others not;
  - i) the access to brothels should be discreet and discourage clients gathering or waiting on the street. Apart from areas where brothels, sex shop and strip clubs predominate, signage should be restricted to the address and telephone number.
2. Development Applications seeking consent for **sex services premises** must demonstrate that the proposed development is not likely to create adverse social impacts because of:
- a) its proximity to any place of **public worship, community facility, educational establishment, child care centre, medical centre, public reserve, recreation area**, residential development or like place where children and young people are likely to gather or pass by;
  - b) disturbance in the neighbourhood when taking into account other **sex services premises** operating in the neighbourhood or other land uses within the neighbourhood involving similar hours of operation;
  - c) disturbance in the neighbourhood because of its size or operating hours, or the number of people working in it;
  - d) lack of a suitable waiting area provided in the premises;
  - e) potential for clients to loiter outside the premises.
3. The design and external appearance of the development and any associated structure must be compatible with nearby development and with the existing character of the locality.

## Prescriptive Measures

1. **Sex services premises** shall not be located within the following distances to the stipulated land use:
  - a) **residential accommodation** – 20m
  - b) **education establishments** – 300m
  - c) **childcare centres** – 300m
  - d) **place of public worship** – 200m
  - e) **community facility** – 200m
2. Any associated **signage** will be need to comply with Chapter B10 Signage.