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## D3 Commercial and Retail Development

### 3.1. Bulky Goods Retailing

#### A. Controls

##### 1) General

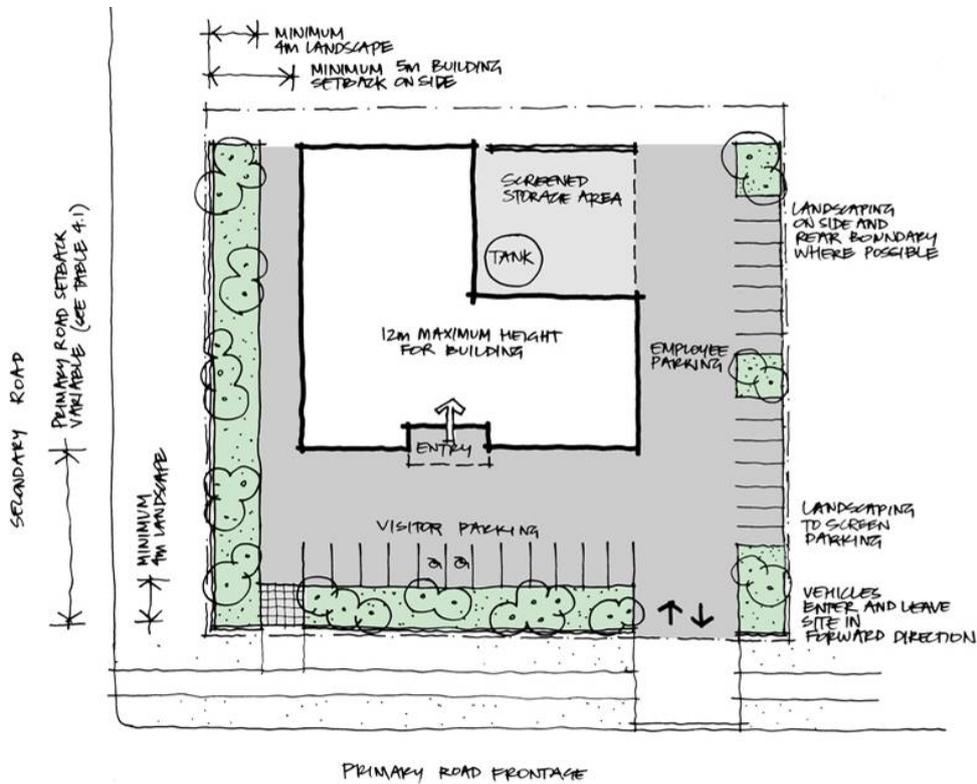
- a) The built form is to provide consistent landscaped front setbacks and an active street address.
- b) Where bulky goods developments also comprise ancillary café or service uses, locate these uses within the primary street frontage to generate activity and interest at street level.
- c) Provide pedestrian footpaths on all streets.
- d) Entrances to bulky goods premises must be on the primary street frontage.
- e) Awnings are to be provided at entry points.
- f) Bulky goods developments are to be located on or close to the main street alignment.
- g) Provide consistent street planting and footpaths are to be provided along Blaikie Road to establish the public domain.
- h) Setback areas are to be landscaped, but may incorporate an off-street parking area if it can be demonstrated that the location of the car parking area as illustrated in Figures D3.1-D3.3:
  - i) Is within a setback which is at least 13m wide and set behind a landscaped area which is at least 4m wide;
  - ii) Promotes the function and operation of the development.

##### 2) Vegetation and landscape

- a) The siting and layout of a development should preserve all on-site trees, significant strands of vegetation, and remnant or native bushland in accordance with the requirements of the Vegetation Management and Landscape Design section of this DCP. Where this is not practical, the development application must justify the loss of vegetation and outline what measures are to be taken to replace it.
- b) Applicants should refer to the Landscape Design section of this DCP regarding the implementation and maintenance of landscaping for the site.
- c) Smaller scale and less visually prominent planting should be provided to add variety and interest in the appearance of the site.
- d) Landscape materials should cause minimal detrimental visual impact, and the use of subtle coloured materials and block or brick paving is encouraged.
- e) Paving and structures shall complement the architectural style of existing buildings.
- f) Outdoor staff break areas should be provided and integrated into landscape areas. These areas should be provided with shade and reasonable amenity.
- g) Shade trees should be provided in outdoor staff break areas and along pedestrian paths and walkways.

- h) Plant species should be carefully selected to meet service authority requirements in easement locations.

**Figure D3.1: Illustration of Building Setbacks – Smaller Site (Plan View)**



**Figure D3.2: Illustration of Building Setbacks – Smaller Site (Cross Section)**

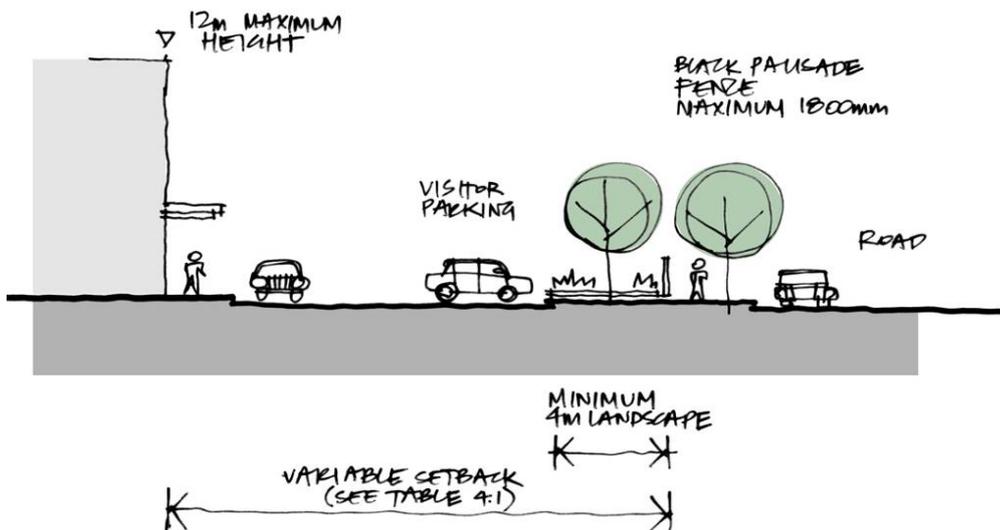
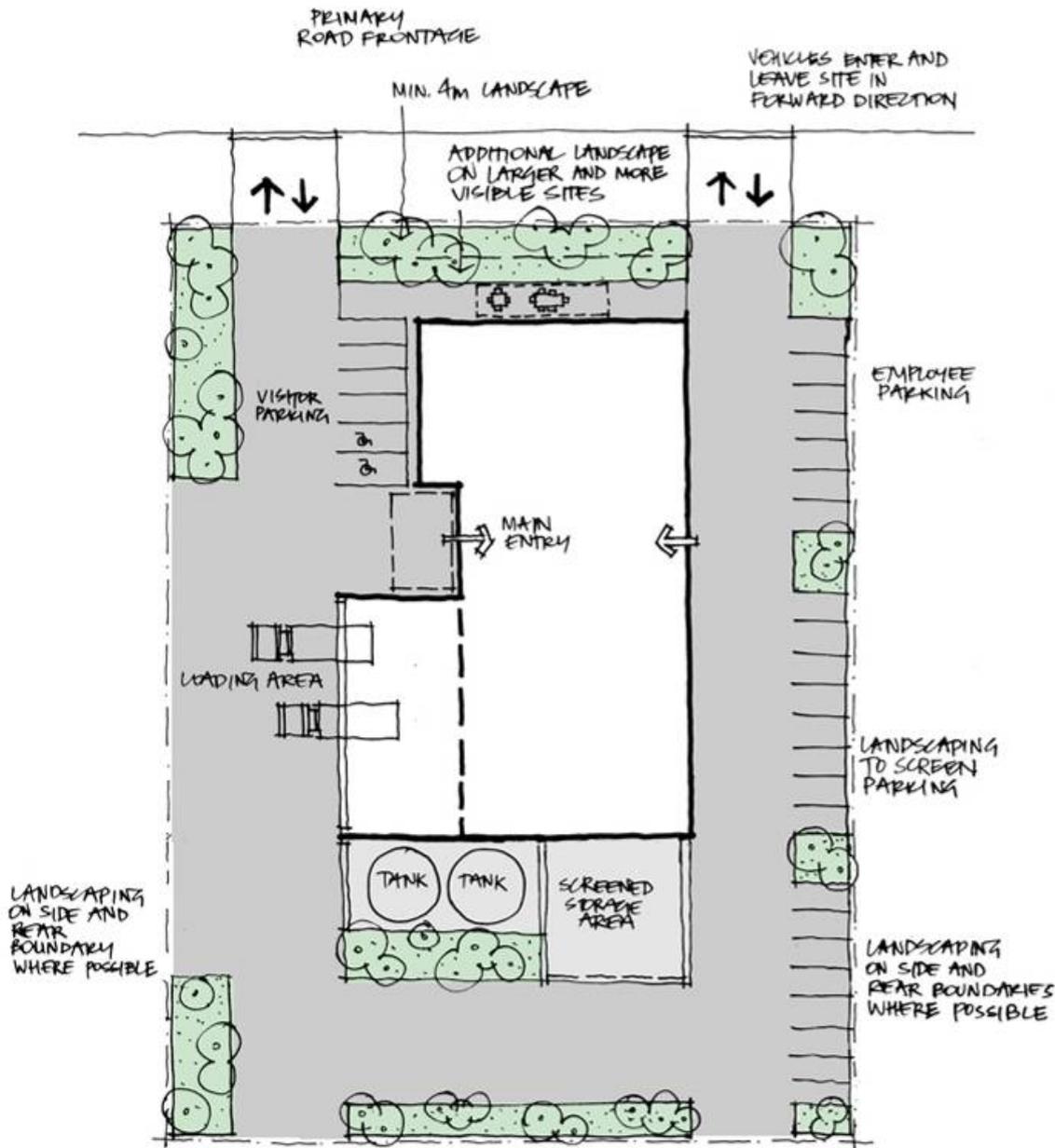


Figure D3.3: Illustration of Building Setbacks – Larger Site (Plan View)



## 3.2. Sex Services Premises

### A. Background

The impact of individual sex services premises can vary in relation to their nature and scale. The concentration of this type of use can also exacerbate negative impacts. The nature of these uses means that specific controls are required to minimise potential impacts on the community and ensure separation from sensitive land uses, such as residences, schools, parks and playgrounds, churches and other places that children may attend for recreational, educational or cultural activities.

The controls in this section seek to reduce negative impacts, while at the same time allow premises to operate in suitable locations and at a suitable scale.

## **B. Objectives**

- a) To ensure that the design and location of sex services premises do not adversely impact on the amenity of the area or neighbouring properties, in particular, land uses that are frequented by children;
- b) To increase the safety of staff and visitors of the sex services premises through the consideration of safety and security aspects in the design and location of premises, and through the provision of appropriate safety measures;
- c) To ensure that the safety of all staff and visitors is maintained when approaching, entering and leaving the premises, including the use of appropriate lighting.
- d) To ensure that sex services premises are accessible to all adult members of the community;
- e) To ensure that the design (including colour, signage and lighting) and external treatment of the sex services premises do not detract from the character and appearance of the streetscape;
- f) To ensure that the interior of the sex services premises, sex workers or sex related products associated with the premises are not visible from outside of the premises;
- g) To ensure that the nuisance to neighbouring properties is minimised through the clear numbering of sex services premises;
- h) To ensure that adequate facilities are provided inside the premises in accordance with relevant occupational health and safety legislation, and provide for the comfort and safety of visitors and staff;
- i) To ensure that the internal layout of the premises maximises the safety and security of staff and visitors;
- j) To ensure that the safety and security of staff and visitors is maintained through the use of security systems and implementation of procedures identified in the Plan of Management;
- k) To ensure that the premises operate in accordance with health standards and any recommended guidelines; and
- l) To ensure compliance with the provisions of the NSW Liquor Act 1982 as it prohibits solicitation or the provision of commercial sexual services on premises having liquor licences.

## **C. Controls**

### **1) Locational and Access Controls**

- a) Sex services premises must not be located:

- i) adjacent to or directly opposite to (including elevation) a sensitive land use unless separated by at least another non-sensitive land use, including a road at least 30 metres wide; or
  - ii) on the same floor or level that contains a dwelling; or
  - iii) in a mixed use development where the primary access to the premises is the same access to the residential floor(s)/ level(s) in that development.
- b) Sex services premises and adult entertainment premises must not be located within a radius of 75m from an existing, approved sex services premises or restricted premises (e.g. adult book store). The radius must be measured from the centre of the primary access to the proposed sex services premises or adult entertainment premises.

**Adult entertainment premises** is a form of restricted premises that provides entertainment such as strip club premises or premises which sells or displays restricted material but does not include hotel accommodation, a pub, home occupation (sex services) or sex services premises.

- c) Access to and within the sex services premises is to be provided in accordance with the Building Code of Australia and the Commonwealth's Disability Discrimination Act 1992 to ensure that the premises is accessible to all adult members of the community. In this regard, access arrangements must demonstrate:
- i) Major entrances to the premises, to which the public are entitled to enter, must be designed and constructed to provide equitable treatment of staff and visitors; and
  - ii) Compliance with the minimum standards of grade, doorway, width and connectivity in accordance with the *Disability Discrimination Act 1992*.

## 2) External Design of Premises

- a) The external appearance of the sex services premises should respect the architectural character of the streetscape so that the sex service premises does not become a prominent feature of the street.
- b) The premises must be clearly numbered, with the number clearly visible from the street and/or foyer or hallway.
- c) All entrances and exits to the sex services premises should be designed to facilitate the privacy of staff and visitors without compromising personal safety (through avoiding the use of isolated and poorly lit back lanes).
- d) The sex services premises, including the signage, must not display sex-related products, images considered by Council to be sexually explicit, lewd or offensive, sex workers or nude or semi-dressed staff from windows, doors or outside of the premises. Details of any proposed signage associated with the sex services premises, including its location and design/wording, are to accompany the development application.
- e) The interior of the sex services premises must not be visible from outside of the premises, including from the footpath.
- f) Where the interior of the sex services premises may be visible from neighbouring buildings, adequate measures should be taken to screen the interior of the premises (e.g. window screens and blinds).

### 3) Internal Design of Premises

- a) Adequate design measures ensuring the safety and security of staff and visitors to the sex services premises must be provided and, where appropriate, should include:
  - i) Reception and visitor assessment areas that incorporate design measures and management procedures to ensure the safety and security of staff and visitors;
  - ii) Minimisation of alcoves and entrapment spaces in its floor layout; and
  - iii) Adequate safety and surveillance systems.

**NOTE:** Operators must comply with the requirements of the *Workplace Surveillance Act 2005*, which prohibits surveillance of staff in staff facilities and where located elsewhere in the premises, requires notification of staff and provision of adequate signage. Where camera surveillance is used, it must not be focused on or record staff providing sex services on a client. The *NSW Summary Offences Act 1988* makes it an offence to film people for the purposes of sexual arousal when in a state of undress or involved in a sexual act without their consent.

- b) Specialist activities involving restraints (such as bondage, suspension) or equipment (ropes, pulleys, slings, poles, etc) must ensure the safety of participants and compliance with the Building Code of Australia and any relevant Australian Standards.
- c) For rooms where bondage and discipline activities are to be administered, the room(s) is to be fitted out with the following elements:
  - i) Provision of a hand wash basin;
  - ii) Provision and storage of first aid kits; and
  - iii) Flooring, walls, shelves and any other equipment that is smooth, impervious and easy to clean.
- d) Each working room should contain water-proof bins fitted with removable plastic liners or mesh bins, and its own sanitary facilities for use by sex workers or their clients. 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.
- e) As a minimum, the following staff facilities must be located within the premises, adjacent to and accessible from cubicles or work areas, and in a secure area inaccessible to visitors:
  - i) Sanitary facilities (toilet, hand basin and shower);
  - ii) Rest area with seating;
  - iii) Dining area with food preparation and storage areas;
  - iv) Sink with running water, water boiling facilities and fridge; and
  - v) Lockers to store personal belongings.
- f) If spa pools, saunas or steam rooms are proposed, details are to be shown on the plans accompanying the development application. Additional shower facilities will be required. Any working rooms that contain a spa pool must also provide a shower in the working room.

- g) Safety and security systems, including secure entry and controlled internal and external access, preferably with remote door release mechanisms, are to be provided.
- h) Where there are three or more working rooms in the sex services premises, intercoms and duress alarm systems are to be installed in all working rooms and staff areas, which are linked to a central base and monitored at all times.
- i) Storage space(s) must be provided for both soiled and clean linen, and safe sex equipment.
- j) If food handling and sales is proposed, details of the food handling and preparation area(s) must be shown on the plans accompanying the development application. These areas must comply with the Food Act 2003 and Food Regulation 2004, and AS4674-2004 Design, Construction and Fit-out of Food Premises.

**NOTE:** It is an offence under the *NSW Liquor Act 1982* to allow sex services to take place in liquor licensed premises.

- k) The use of the premises must not give rise to 'offensive noise' or transmission of vibration to any place of a different occupancy. Offensive noise is defined under the Protection of the Environment Operations Act 1997.

#### **4) Operational Matters**

- a) Current, written information must be provided to staff and visitors regarding sexually transmitted infections. The information must be available in the reception/visitor assessment areas.

If the sex services premises are staffed by sex workers of a predominantly non-English speaking background, then the premises operator must provide current written information on sexually transmitted infections in the language spoken by the sex workers.

- b) A Plan of Management must be submitted with the development application, with particular regard to procedures that ensure sex workers can perform their work in a safe manner with minimum risk to their health. The Plan of Management should include (but not be limited to):
  - i) Demonstration of compliance with NSW WorkCover's *Health and Safety Guidelines for Brothels* (2001);
  - ii) Security and safety provisions, including procedures for staff duress events, particularly for premises where intercom and alarm systems are not required, and ensuring that loitering around and adjacent to the entrance of the premises does not occur;
  - iii) Any security staff, or other staff or contractor who may, as part of their responsibilities, enter the footpath or public domain;
  - iv) Risk management protocols to assist sex workers and staff to manage risk exposures, such as blood and body fluid splashes, needle stick injuries and the like;
  - v) Provision of adequate training of sex workers to carry out visual examination of potential clients to detect whether there is any visible evidence of sexually transmitted infections;

- vi) Provision and management of clean linen and clean towels for use for each client, including an adequate number of receptacles for the separate storage of clean linen and soiled linen;
  - vii) Provision and management of safe sex practices, including products, the storing and cleaning of sex service toys/equipment (including condoms, dental dams, gloves and any other safe sex products); and
  - viii) Details to ensure that sex workers and their clients are educated in the practice of safe sex to minimise risk to health.
- c) It is recommended that private contractors be used to launder towels, sheets and linen used in the premises. As a minimum, it is recommended that linen be washed in a hot water wash that is at water temperature of 70°C using laundry detergent and that all items of linen are thoroughly dried before reuse.
- d) Spruikers are not permitted in association with the operation of the sex services premises.

**Spruiker** means a person or persons located in a public place, including a footpath, who seek to entice people to enter the premises.

- e) The operator and management of the sex services premises must ensure compliance with the approved Plan of Management.
- f) It is recommended that the following steps be followed to ensure the continuing good health of sex workers:
- i) Sex workers are to be immunised against Hepatitis A and B;
  - ii) Sex workers are to attend a sexual health centre or private doctor for sexual health assessment, counselling and education appropriate to individual needs. The frequency of assessment is a matter for determination by the individual sex worker in consultation with his/her clinician;
  - iii) Evidence of attendance for sexual health tests are not to be used as an alternative to safe sex practices;
  - iv) Sexual health certificates of attendance do not imply freedom from sexually transmitted infections; and
  - v) Each client is to be examined by the sex worker to detect any visible evidence of sexually transmitted infections.
- 5) Expansion or Intensification of Existing Premises
- a) In the event that an existing premises seeks to expand its operations or intensify its use, the provisions of this section, including the locational and access controls, will be applied.

## 3.3. Restricted Premises

### A. Background

Restricted premises are premises that, due to their nature, restrict access to customers over 18 years of age, and include sex shops and similar premises.

The impact of restricted premises can vary in relation to their nature and scale. The nature of these uses means that specific controls are required to minimise potential impacts on the community and ensure separation from sensitive land uses such as residences, schools, parks and playgrounds, churches and other places that children may attend for recreational, educational or cultural activities.

The controls in this section seek to reduce negative impacts while at the same time allow premises to operate in suitable locations and at a suitable scale.

### B. Objectives

- a) To ensure that the design and location of restricted premises does not adversely impact on the amenity of the area or neighbouring properties, in particular, land uses that are frequented by children;
- b) To ensure that the interior of restricted premises or any restricted material / sex-related products associated with the premises are not visible from the public domain;
- c) To ensure that restricted premises are accessible to all adult members of the community;
- d) To ensure that consideration is given to all aspects of the development, including its operation, and in particular those aspects associated with preserving the amenity of neighbouring premises, and ensuring the safety and security of staff and visitors.
- e) To ensure that underage persons are unable to enter restricted premises.

### C. Controls

#### 1) Locational and Access Controls

- a) The primary entrance of restricted premises must not be located:
  - i) Adjacent to or directly opposite to (including elevation) a sensitive land use unless separated by at least another non-sensitive land use, including a road at least 30 metres wide; or
  - ii) On the same floor or level of a building that contains a dwelling; or
  - iii) In a mixed use development where the primary access to the premises is the same access to the residential floor(s)/ level(s) in that development.
- b) Restricted premises must not be located within a radius of 75 metres from an existing, approved sex services premises or restricted premises, including adult entertainment premises. The radius must be measured from the centre of the primary access to the proposed adult entertainment premises or sex services premises.

Adult entertainment premises: is a form of restricted premises that provides entertainment such as strip club premises or premises which sells or displays restricted material but

does not include hotel accommodation, a pub, home occupation (sex services) or sex services premises.

- c) Access to and within restricted premises is to be provided in accordance with the Building Code of Australia and the Commonwealth's *Disability Discrimination Act 1992* to ensure that the premises is accessible to all adult members of the community. In this regard, access arrangements must demonstrate:
  - i) Major entrances to the premises, to which the public are entitled to enter, must be designed and constructed to provide equitable treatment of staff and visitors; and
  - ii) Compliance with the minimum standards of grade, doorway, width and connectivity in accordance with the *Disability Discrimination Act 1992*.

## **2) External and Internal Design of Premises**

- a) The external appearance of restricted premises should respect the architectural character of the streetscape so that the premises does not become a prominent feature of the street.
- b) The premises must be clearly numbered, with the number clearly visible from the street/foyer.
- c) Restricted premises, including the signage, must not display any restricted material including sex-related products or toys, images considered by Council to be sexually explicit, lewd or offensive, from windows, doors or outside of the premises. Details of any proposed signage associated with the restricted premises, including location and design/wording, are to accompany the development application for the use/activity.

Restricted material means publications classified Category 1 restricted, Category 2 restricted or RC (Refused Classification) under the Commonwealth's Classification (Publications, Films and Computer Games) Act 1995.

- d) Adequate design measures ensuring the safety and security of staff and visitors to the restricted premises must be provided and, where appropriate, should include:
  - i) Reception/counter area that incorporates design measures and management procedures to ensure the safety and security of staff and visitors;
  - ii) Minimisation of alcoves and entrapment spaces in its floor layout; and
  - iii) Adequate safety and surveillance systems.
- e) The interior of restricted premises must not be visible from outside of the premises, including the footpath.
- f) Where the interior of the restricted premises may be visible from neighbouring buildings, adequate measures should be taken to screen the interior of the premises (e.g. window screens and blinds).
- g) If food handling and sales is proposed (including drinks), details of the bar and food handling and preparation area(s) must be shown on the plans accompanying the development application. These areas must comply with the Food Act 2003 and Food Regulation 2004, and AS4674-2004 Design, Construction and Fitout of Food Premises.
- h) If private viewing areas/booths or cinema rooms are proposed, there are potential health risks in the transfer of body fluids between customers utilising this facility. As a minimum:
  - i) A hand wash basin is to be provided adjacent to private viewing areas/booths or cinema rooms, and is available for customers to use at all times;

- ii) A safety and surveillance system is to be located at the entrance of these areas as an additional safety and security measure;
  - iii) These areas must be cleaned on a daily basis with spot cleaning to occur as necessary; and
  - iv) Waste receptacles are to be provided in all areas/booths or cinema rooms.
- i) The use of the premises must not give rise to 'offensive noise' or transmission of vibration to any place of a different occupancy. Offensive noise is defined under the *Protection of the Environment Operations Act 1997*.

### **3) Operational Matters**

- a) A Plan of Management must be submitted with the development application. The Plan of Management should include (but not limited to):
  - i) Security and safety provisions, including ensuring that loitering around and adjacent to the entrance of the premises does not occur;
  - ii) Any security staff, or other staff or contractor who may, as part of their responsibilities, enter the footpath or public domain;
  - iii) Hours of operation, including noise;
  - iv) Risk management and cleaning protocols in relation to private viewing areas/booths or cinema rooms; and
  - v) Where appropriate, the management of the food / bar handling and preparation areas in accordance with relevant health guidelines and the *NSW Liquor Act 1982*.
- b) Spruikers are not permitted in association with the operation of restricted premises.
- c) The operator and management of the restricted premises must ensure compliance with the approved Plan of Management.

### **4) Expansion or Intensification of Existing Premises**

- a) In the event that an existing premises seeks to expand its operations or intensify its use, the provisions of this section, including the locational and access controls, will be applied.