

HOME OCCUPATION RELATIVE TO SEXUAL SERVICES BUSINESS POLICY

Policy Type: Council Policy Policy Owner: Director Urban Planning	Policy No. CP - 059 Last Review Date: 15 March 2011
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POLICY OBJECTIVES

This Policy is prepared to assist in the determination of applications for Home Occupation approval relative to Sexual Services Businesses.

The key objective is the protection of the City's residential environment by prohibiting the establishment of Sexual Services businesses within residential properties.

POLICY STATEMENT

BACKGROUND

The issue of Sexual Service businesses operating as Home Occupations under Clause 5.6 of Community Planning Scheme No. 5 (CPS5) has emerged since assent of the Prostitution Amendment Act 2008. This legislation has not been proclaimed to date, and is under review by the current State Government. As such the Policy remains relevant for the City..

It is clear that the existing Home Occupation provisions of the Scheme have some ability to control these activities in the residential Living Area Precincts of the City. However, these provisions do not prevent this type of activity from establishing in such areas and the decisions taken by the City in restricting the establishment of such uses within its Living Area Precincts can be the subject of review at the State Administrative Tribunal. This presents a risk to the City and its residents.

Council considers that in order to safeguard the amenity of its residents from the adverse impacts that can result from the establishment of such businesses, that CPS5 should be amended to specifically preclude the operation of this type of business activity within the City's residential areas.



The Council has resolved to initiate Amendment No 55 to CPS5 to prevent the operation of Sexual Service Businesses within residential Living Area Precincts of the City. In order to provide greater protection of amenity, the Amendment also proposes to include a definition of “Nuisance” which will provide guidelines for the measurement of the impacts of these, and other Home Occupation businesses, on surrounding residences. Amendment No 55 has been recommended for finalisation follow public consultation. The Amendment is yet to be endorsed by the Minister for Planning, Culture and the Arts, Environment and Youth, pending a review of the Prostitution Amendment Act.

AIMS OF POLICY

The Aims of this Policy are as follows:

1. To restrict businesses of a sexual service nature within the Living Area Precincts of the City of Melville.
2. Provide interim measures to prevent Sexual Service Businesses from gaining Home Occupation approvals in accordance with Clause 5.6 of CPS5, whilst Amendment No 55 to CPS5 is progressed through the Scheme Amendment process.
3. Provide greater clarity with regard to the term “Nuisance” in the determination of all home occupations.

OPERATION OF POLICY

A timeline for the acceptance of Scheme Amendment No 55 to CPS5 remains unclear, and it is accepted that the Minister for Planning, Culture and the Arts, Environment and Youth may not endorse the Amendment if it is seen to compromise the intent of the Prostitution Amendment Act 2008 (or any further modified legislation). In view of this, this Council Policy is introduced to safeguard the City’s residential communities from the adverse impacts associated with the operation of Sexual Service Businesses. The provisions of this Policy will apply until such time that Scheme Amendment No 55 of CPS5 is endorsed.

POLICY REQUIREMENTS

1. Council will not grant approval for a Home Occupation where that occupation consists of the establishment and conduct of a Sexual Service Business.
2. In order to provide clarity on appropriate uses within a residential environment, and in this context, ‘Nuisance’ is defined as unreasonable, unwarranted, excessive or unlawful use of one’s property to the extent of unreasonable annoyance or inconvenience to a neighbour or to the public.



References that may be applicable to this Policy

Legislative Requirements:

Procedure, Process Maps, Work Instructions:

Other Plans, Frameworks, Documents Applicable to Policy:

Delegated Authority No:

ORIGIN/AUTHORITY

ITEM NO.

REVIEWS

Ordinary Meeting of Council

15 March 2011

P11/3188