

**In the Land and  
Environment Court  
of New South Wales**

**No. 11031 of 2006**

**Wendy Wei**

Applicant

**Holroyd City  
Council**

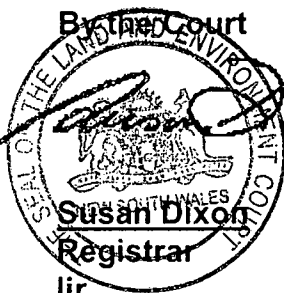
Respondent

**Order**

**The Court orders that:**

1. The appeal is upheld.
2. Development consent is granted to DA 2007/105, for alterations to Unit 1, 181 McCredie Road, Guildford West to enable each use as a brothel, subject to the conditions in Annexure A.
3. The exhibits be returned except for 5, 6, 7, A, B and C.

**Ordered: 29 March 2007**

By the Court  
  
Susan Dixon  
Registrar  
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**Annexure "A"**  
**Conditions of Consent**

**Wendy Wei v Holroyd City Council**  
**PROPERTY: 1/181 McCredie Rd, Guildford West**

**DEFERRED COMMENCEMENT CONDITION**

1. This consent does not operate until the applicant provides information satisfying Council of the following matter. This information shall be submitted to Council within 3 (three) months from the date of this deferred commencement consent.

The applicant shall provide written evidence demonstrating that insurances required under the *Strata Schemes Management Act 1996* can be obtained by the Owners Corporation, where the insurers are aware that Unit 1 is approved for use as a brothel.

Such evidence shall be obtained from not less than 3 "approved insurers" within the meaning of s95 of that Act.

**PRELIMINARY**

2. This consent shall lapse if the above development is not physically commenced within five (5) five years of the date shown hereon..
3. Deleted.
4. Development shall take place in accordance with the attached endorsed plans/documentation:
  - Drawing Nos. 12161/DA/001, 12161/DA/002 (Rev. A), 12161/DA/003 Rev. B), 12161/DA/101, 12161/DA/102 (Rev. A) and 12161/DA/201 prepared by Archi-Dr Building Designers;
  - Statement of Environmental Effects for Proposed Brothel "Ying Yang Health Centre" (Report No. SEE-04-0133) dated 11 August 2006 prepared by PGH Environmental Planning;
  - Amended Plan of Management, Annexure "B" prepared by PGH Environmental Planning; and
  - Waste Management Plan dated 15 August 2006.
5. All building work shall be carried out in accordance with the requirements of the Building Code of Australia. Fully detailed plans including fire safety details shall be submitted with the Construction Certificate application. No work is to commence until such time as a Construction Certificate is obtained for the work/building permitted by this Consent.



**Appointment of Council or a Private Certifier as the Principal Certifying Authority (PCA)**

6. Either Council or a Private Certifier is to be appointed as the Principal Certifying Authority (PCA) for the development in accordance with Section 109E of the Act.

Accordingly, wherever reference is made to the Principal Certifying Authority in this Consent, it refers to Council or the Private Certifier as chosen by you.

**Note:** Once you have chosen either Council or a Private Certifier as the PCA, you cannot change from one to the other, or from one Private Certifier or another, without the approval of DIPNR.

7. The applicant shall consult with, as required:
- (a) Sydney Water Corporation Limited
  - (b) Integral Energy
  - (c) Natural Gas Company
  - (d) A local telecommunications carrier
- regarding their requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on site or on the adjacent public road(s).
8. The proposed structure/s are to be located clear of existing Council easements. Special footings will be required where the proposed/existing structures are adjacent to a drainage easement. The footings shall be taken down to the invert level of the existing drainage structure or to solid rock, whichever is the lesser. The footing depth may decrease by 500mm for every 1000mm increment in distance the footing is from the easement boundary.
- The footing system is to be designed by a practising professional structural engineer.

**NOTE: FEES AND BONDS INDICATED IN CONDITIONS OF THIS CONSENT MAY VARY IN ACCORDANCE WITH THOSE ADOPTED BY COUNCIL AT SUBSEQUENT ANNUAL REVIEWS OF ITS "FEES AND CHARGES". FEES CHARGED WILL BE THOSE CURRENT AT THE TIME OF PAYMENT.**



## PRIOR TO ISSUE/RELEASE OF CONSTRUCTION CERTIFICATE

The following conditions must be complied with prior to the issue of a Construction Certificate. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate:-

### Payment of Bonds, Fees and Long Service Levy

9. The Principal Certifying Authority is to ensure and obtain written proof that all bonds, fees and contributions as required by this consent have been paid to the applicable authority. This includes all Long Service Levy payments to be made to the Long Service Payments Corporation.

### Damage Deposit

10. A cash bond/bank guarantee of **\$1,940** must be paid/lodged with Council to cover making good any damage caused to the property of Council, by any works associated with the development. This will be held for 'six (6) months after the completion of works' or six (6) months after the issue of 'Final Occupation Certificate' (whichever occurs last) to remedy any defects that may arise within this time.

**Note:-** The applicant/owner shall be held responsible for and may be required to pay the full reinstatement costs for damage caused to Council's property (such as road pavement, kerb and guttering, footway, stormwater drainage etc), unless the applicant/owner notifies Council in writing and provides proof of any existing damage to Council's property. However, if in the opinion of Council, works associated with the development have worsened any existing damage, Council may require full reinstatement. If damage does occur during construction, prior to reinstating any damage to Council's property, the applicant/owner shall obtain design specifications of all proposed restoration works. Restoration/construction works within the road reserve shall be carried out by a licensed construction contractor at the applicant/owners expense and shall be inspected by Council prior to placement of concrete and/or asphalt.

### Consistency with Endorsed Development Consent Plans

11. The Principal Certifying Authority must ensure that any certified plans forming part of the Construction Certificate, are in accordance with the Development Consent plans.

### Required Submissions to Certifying Authority

Details of the location of existing and proposed fire safety services including portable fire extinguishers, fire hose reels and emergency lighting shall be submitted to the PCA, prior to issue of the Construction Certificate.



13. A current Fire Safety Schedule and Annual Fire Safety Certificate for the unit shall be submitted to the PCA, prior to issue of the Construction Certificate.
14. A structural engineers report, demonstrating the proposed development can be constructed as per the submitted DA plans with no works to the common property (e.g., no alterations or penetrations to ground floor slab, surrounding walls, ceiling and roof which are common property) shall be submitted to the PCA, prior to issue of the Construction Certificate.
15. Details shall be provided on the Construction Certificate plans demonstrating the design of the ground floor meets the standards for disabled access, prior to issue of the Construction Certificate.

#### **PRIOR TO WORKS COMMENCING**

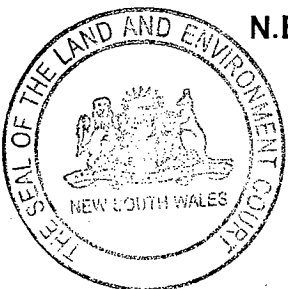
**The following conditions are to be complied with prior to any works commencing on the site:**

##### **Appointment of Principal Certifying Authority and Notification of Commencement of Work**

16. The person having the benefit of the development consent, not the principal contractor (builder), must: -
  - a) appoint a Principal Certifying Authority in accordance with Section 81A(2)(b) of the Act.
  - b) Have the Principal Certifying Authority complete the 'Accredited Certifier Details' on the approved form provided by Council for this purpose, an original of which is attached to this Development Consent.
  - c) Notify Council of the appointment of the Principal Certifying Authority and of the intention to commence building work, such notification is to be given to Council at least two (2) working days prior to the proposed commencement date, and be on the approved form provided by Council for this purpose, an original of which is attached to this Development Consent.

*If nominated, Council can provide this service for you and act as the Principal Certifying Authority.*

**N.B.** The Principal Certifying Authority must also notify the person having the benefit of the Development Consent of any mandatory critical stage inspections and other inspections that are to be carried out in respect of the building work such notification must comply with Clause 103A of the Regulations.



### Notification of Principal Contractor (Builder)/Owner-Builder

17. The person having the benefit of the Development Consent must:-
- (a) notify the Principal Certifying Authority that the person will carry out the work as an owner-builder, if that is the case;

OR

- (b) Appoint a Principal Contractor for the building work (who must be the holder of a contractor licence if any residential building work is involved), and notify the Principal Contractor of any mandatory critical stage inspections and other inspections that are to be carried out in respect of the building work.
- (c) notify the Principal Certifying Authority of any such appointment.

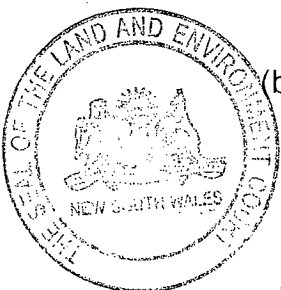
Where Council is the Principal Certifying Authority, such notification is to be on the approved form provided by Council for this purpose, an original of which is attached to this Development Consent.

### Fencing of Sites

18. In the event that the Owners Corporation resolve to install a power-operated security gate on the southern side of the roller door of Unit 1 to separate the brothel car parking from the remainder of the site, the Applicant shall contribute towards the costs of the gate an amount equal to 25% of the costs of the gate if it was located on the northern side of Unit 1 together with any additional amount to install the gate on the southern side of Unit 1. The gate shall comprise a fixed panel for the length of the adjacent carparking space and an opening section across the access driveway. The gate shall be a minimum of 1.8m height of steel palisade construction. Arrangements shall be made with emergency service authorities to enable emergency access to the rear of the property to be obtained at any time, including in the event of a power failure.

### Signs to be Erected on Sites

19. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted **outside working hours and at any time for business purposes**, and



- (c) stating that unauthorised entry to the work site is prohibited.

The sign must be rigid and durable and be read easily by anyone in any public road or other public place adjacent to the site.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

**Note:** Principal Certifying Authorities and Principal Contractors must also ensure that signs required by this clause are erected and maintained (clause 227A of the Regulations currently imposes a maximum penalty of \$1,100).

### **Prohibited Signage**

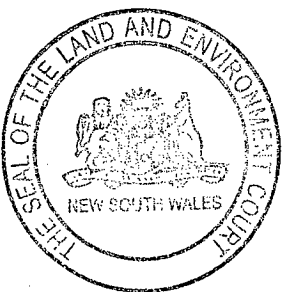
20. Advertising, Real Estate Agents, Architects, Designers, site suppliers and any other signage not mentioned in the conditions, is not to be placed or displayed on the site, such that the signage is visible from any public place or the communal property of the strata plan. Offenders may be prosecuted.

### **Protection of Public Places**

21. A hoarding or fence must be erected between the work site and any public place, if the work involved in the erection or demolition of the building; is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place.  
If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.  
The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

### **Site Control Measures**

22. Suitable erosion and sediment control measures shall be provided at all vehicular entry/exit points and all other measures required with and/or shown on plans accompanying the Construction Certificate, to control soil erosion and sedimentation, are to be in place prior to the commencement of construction works. Such controls are to be provided in accordance with Holroyd City Council's "Erosion & Sediment Control Policy."



**Note:** On-the-spot fines may be issued by council where measures are absent or inadequate.

### **Footpaving, Kerbing and Guttering**

23. Protection must be provided for Council footpaving, kerbing and guttering. Wooden mats must also be provided at all entrances where the site fronts paved footpaths.

### **Support for Neighbouring Buildings**

24. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land (including a public road and any other public place), the person causing the excavation to be made:-
- a) must preserve and protect the building from damage, and
  - b) if necessary, must underpin and support the building in an approved manner, and
  - c) must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the building being erected or demolished.

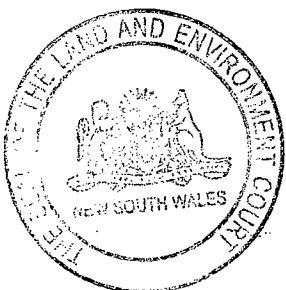
The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land. (In this clause, *allotment of land* includes a public road and any other public place).

### **Toilet Facilities**

25. Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- a) Must be a standard flushing toilet, and
- b) Must be connected:
  - i) To a public sewer,
  - ii) If connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
  - iii) If connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.
- iv) The position of the toilet on the site shall be determined by Council's Building Surveyor and/or Sydney Water.





## DURING CONSTRUCTION

The following conditions are applicable during construction:-

### Endorsed Plans & Specifications

26. A copy of the endorsed stamped plans and specifications, together with a copy of the Development Consent, Construction Certificate and approved Traffic Management Plan are to be retained on site at all times.

### Hours of Work & Display of Council Supplied Sign

27. For the purpose of preserving the amenity of neighbouring occupations building work including the delivery of materials to and from the site is to be restricted to the hours of 7.00am to 6.00pm Mondays to Fridays and 8.00am to 4.00pm Saturdays. Work on the site on Sundays and Public Holidays is prohibited. **Note: Demolition work is not permitted on weekends or Public Holidays - refer to specific demolition condition for approved hours.**

The yellow "Hours of Building Work" sign (supplied by Council with the approval), is to be displayed in a prominent position at the front of the site for the duration of the work.

### Site Control

28. Builder's refuse disposal and storage facilities are to be provided on the development site for the duration of construction works and all rubbish shall be removed from the site upon completion of the project.
29. Stockpiles of sand, soil and other material shall be stored clear of any drainage line or easement, tree protection zone, water bodies, footpath, kerb or road surface and shall have erosion and sediment control measures in place to prevent the movement of such materials onto the aforementioned areas and adjoining land.

### Asbestos Cement Sheetting

30. i) All asbestos cement sheetting must be removed by contractors with an appropriate licence issued by WorkCover and who are familiar with asbestos removal prior to the commencement of:-
- (a) Recladding or brick veneering of any building where the existing walls to be covered are currently clad with asbestos cement;

OR



- (b) Construction work where new work abuts existing asbestos cement sheeting and/or where parts of the existing building clad with asbestos cement sheeting are to be altered or demolished.

Removal must be carried out strictly in accordance with WorkCover's "Your Guide to Working with Asbestos" (copy attached).

- ii) All asbestos laden waste, including asbestos cement flat and corrugated sheets must be disposed of at a tipping facility licensed by the Department of Environment and Conservation (DEC).

**Note:** The person responsible for disposing of the above asbestos waste is to telephone the DEC on (02) 9995 5000 or Council's Waste Officer on (02) 9840 9715 to determine the location of a tip licensed to receive asbestos. **Upon completion of tipping operations the applicant shall lodge with the Council, all receipts issued by the receiving tip as evidence of proper disposal.**

- iii) Within fourteen (14) days of completion of renovation or recladding or brick veneering works where asbestos cement sheeting was removed, the applicant shall submit to Council an asbestos clearance certificate prepared by a NATA accredited occupational hygienist.

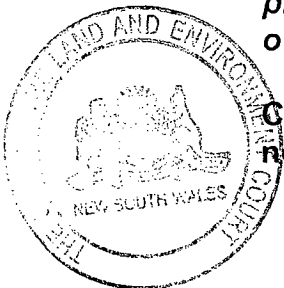
**Note:** To find a list of NATA accredited facilities visit the NATA website at [www.nata.asn.au](http://www.nata.asn.au) and click on 'Find a Facility', select 'Directory', type 'asbestos' into the search box and click on 'Search'.

### **Waste Management Plan**

- 31. The approved Waste Management Plan must be implemented and complied with during all stages of works on site.
- 32. Within seven (7) days of completion of construction/building works, the applicant shall submit a signed statement to Council or the Principal Certifying Authority verifying that demolition work and recycling of materials was undertaken in compliance with the Waste Management Plan. The Principal Certifying Authority shall submit a copy of the statement to Council.

***In reviewing such documentation Council will require the provision of actual weighbridge receipts for the recycling/disposal of all materials.***

**Compliance with Critical Stage Inspections and other Inspections nominated by the Principal Certifying Authority**



33. Section 109E(d) of the Act requires certain specific inspections (prescribed by clause 162A of the Regulations) and known as 'Critical Stage Inspections' to be carried out for building work. Prior to permitting commencement of the work your Principal Certifying Authority is required to give notice of these inspections pursuant to clause 103A of the Regulations.

**N.B.** An Occupation Certificate cannot be issued and the building may not be able to be used or occupied where any mandatory critical stage inspections or other inspections required by the Principal Certifying Authority are not carried out.

Where Council is nominated as Principal Certifying Authority, notification of all inspections required is provided with the Construction Certificate approval.

#### **Vehicle Cleansing**

34. Concrete trucks and trucks used for the transportation of building materials shall not traffic soil, cement or similar materials onto the road. Hosing down of vehicle tyres shall be conducted in a suitable off-street area where wash water is prevented from entering the stormwater system or adjoining property.

#### **Additional Information during Remediation/Demolition/Construction**

35. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council immediately.

### **PRIOR TO ISSUE OF FINAL OCCUPATION CERTIFICATE**

The following conditions are to be complied with prior to the issue of a final occupation certificate:-

#### **Certificates/Documentary Evidence**

36. A final clearance is to be obtained from Integral Energy if such clearance has not previously been issued.
37. A Structural Engineer's certificate from the supervising structural engineer responsible for the design shall be submitted to the Principal Certifying Authority and shall state that all foundation works/reinforced concrete/structural members have been carried out/erected in accordance with the Engineer's requirements and the relevant SAA Codes.



**Note:** Any such certificate is to set forth the extent to which the engineer has relied on relevant specifications, rules, codes of practice or publications in respect of the construction.

### **Parking/Driveway**

38. All dwellings/units and associated car parking spaces shall be numbered on site in accordance with numbering on the endorsed plans.
39. The driveway shall be signposted indicating availability of visitor off-street parking. Spaces reserved for this purpose shall be marked as such.

### **House/Street Number**

40. A house/street number must be displayed on all newly developed properties in accordance with Council's "Policy on the Display of House Numbers" available from the Customer Services Counter or Council's website, [www.holroyd.nsw.gov.au](http://www.holroyd.nsw.gov.au).

### **Removal of Signage on Change of Occupation**

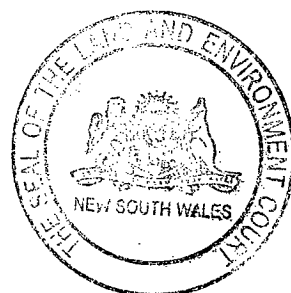
41. All signage associated with the previous use is to be removed from the premises.

### **General**

42. Documentary evidence and/or certificate of compliance must be submitted to Council to show that all works have been completed in accordance with this Development Consent and its accompanying Construction Certificate.

### **Signage**

43. Signage for the brothel is to be limited to one sign (maximum 600mm x 1100mm) reading "Ying Yang Health Centre" comprising black lettering on an illuminated white background. The sign shall be located on the ground floor eastern elevation of Unit 1 in the immediate vicinity of the entry door. No signs are to be placed on the McCredie Road elevation or the upper level mezzanine façade. The sign shall only be illuminated during the approved hours of operation.



## CONDITIONS RELATING TO USE

The following conditions are applicable to the use of the development:-

### Plan of Management

44. The brothel shall be operated at all times in accordance with the plan of management (POM)(Exhibit C) a copy of which is annexure "B" hereto. A 24-hour contact number is to be provided to the Owners Corporation, tenants and Council.

An Incident Log (or computerised record) shall be maintained in which are recorded details of any incident or complaint regarding the use (including time, date, nature of incident/complaint, name and contact number of complainant). The Incident Log shall record action taken in response to reports and the outcome achieved.

The Incident Log shall be submitted to Council on a 6-monthly basis for Council's records.

The operator of the brothel shall prepare, on an annual basis (on the anniversary of the date of the Occupation Certificate) a report that reviews the POM and identifies the need to modify/update the POM. The updated POM shall not remove any existing requirement of the POM unless it is necessary to provide an adequate response to an identified issue and the reasons are documented in the report. Copy of the report and undated POM shall be submitted to Council for its records.

### Safety & Amenity

45. No signs or goods are to be displayed or trading of any description is to be carried out on the public road, public footpath, utility service land, customer and/or employee parking area, the driveways or pedestrian walkways outside or in the immediate vicinity of the premises.

46. For the purposes of preserving the amenity of neighbouring occupations and residents, hours of operation are to be restricted to between:-

10.00am and 10pm Monday to Friday; and  
10.00am and 8.00pm Saturdays.

47. All activities are to be confined within the building and no such activity shall occur externally to the building and this shall include loading and unloading, also storage of new and used materials.

48. Business is to be conducted and patrons are to be controlled at all times so that no interference occurs to the amenity of the adjoining occupations.



49. Where an intruder alarm is installed on the premises it shall be fitted with a timing device in accordance with the requirements of the Protection of the Environment Operations Act 1997.
50. No more than three (3) sex workers shall operate from the premises at any time and not more than one client shall attend a service room at any one time. Service of multiple clients at any one time is not permitted.

### Health Conditions

51. NSW Health and WorkCover NSW have developed detailed guidelines known as "*Health and Safety Guidelines for Brothels in NSW – Guide 2001*" which address the key occupational health and safety responsibilities for those involved in the sexual services industry. It is a requirement of Council and the responsibility of brothel proprietors and principal sex workers that a full copy of the Guidelines is obtained and utilised at the premises. The Guidelines can be obtained from WorkCover NSW Ph: 1300 799 003.
52. The business is to operate in strict compliance with the relevant provisions of Holroyd City Council's Development Control Plan No. 25 - "Planning Controls for Brothels".
53. The premises shall be maintained in a clean, sanitary condition and kept in a satisfactory state of repair at all times. No linen, waste or any other materials or items associated with the use may be placed outside the building at any time.
54. The proprietor must provide clean linen (or a clean cover) and towels for the use of each client.
55. All linen, including towelling and other bed coverings which comes into contact with clients shall be changed immediately after each use.
56. An adequate number of receptacles (suitably stored within the building and protected from contamination) shall be provided for the separate storage of used and clean linen.
57. The proprietor shall, whilst the premises is operating, regularly change coverings used on beds, furnishings or the like.
58. The proprietor shall, whilst the premises is operating, immediately change any coverings used on beds, furnishing or the like that are visibly stained with body fluids.

It is recommended that private contractors be used to launder towels, sheets and linen. If laundering is carried out on the premises, then the



proprietor must install and use a commercial washing machine capable of washing at a temperature of not less than 70°C.

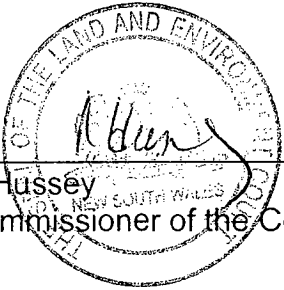
60. All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined within the Protection of the Environment Operations Act 1997. All waste generated shall be disposed of by an authorised contractor.
61. Adequate facilities shall be provided for the disposal of used condoms, soiled tissues and other waste products of sexual activity in all rooms, cubicles, booths or the like where sexual activity occurs.
62. The operator shall ensure that the workplace meets the requirements of the Occupational Health & Safety Act.
63. The proprietor shall ensure that all sex workers undertake regular health check-ups.
64. **Note:** The proprietors attention is drawn to the provisions of Section 13 of the Public Health Act 1991, which makes it an offence to knowingly permit sex workers suffering from a sexually transmissible disease to have sexual intercourse with other persons unless the client has been informed of the risk and voluntarily agrees to accept the risk.
65. The proprietor shall provide written information, ie. pamphlets and brochures for sex workers and clients on sexually transmitted infectious diseases in a variety of languages including those of any sex worker who has difficulty communicating in and/or reading the English language.
66. The proprietor shall ensure that sex workers receive appropriate induction, are adequately trained and continually being provided with updated information to examine clients for any visible evidence of sexually transmitted diseases, and that examinations are conducted before any sexual contact.
67. The practice of safe sex should be the basis on which the brothel operates. The proprietor shall supply an adequate supply of condoms, dental dams and water based lubricant free of charge for sex workers and their clients. Condom vending machines are not permitted as a means of supply.
68. That the premises shall be provided with artificial lighting to provide a level of illumination appropriate to the function or use of the building/spaces to enable safe use and movement of occupants in accordance with Part F4 of the BCA.



69. The lighting system being appropriately zoned to facilitate cleaning of rooms, cubicles, booths or the like during times when the premises is commercially open.
70. The lighting to all rooms, cubicles, booths or the like shall be fitted with user adjustable dimmer switches or the like to assist safe sexual practices.
71. Each room, cubicle, booth or the like shall contain its own sanitary facilities (including toilet, shower/bath and a wash hand basin) for the use of both sex workers and clients.
72. All required wash hand basins shall be provided with an adequate supply of potable warm water, at a temperature of at least 40°C, under mains pressure, mixed through a common outlet.
73. Liquid soap and disposable hand towels shall be provided near all required wash hand basins on the premises.
74. Equipment which cannot tolerate immersion must be cleaned by wiping with detergent and water and then disinfected by wiping with either a solution of one part bleach to two parts water or 70% alcohol, rinsed and allowed to dry prior to use. Cleaning and disinfection should be compatible with the manufacturer's instructions.
75. Only single-use douche tubes of medical quality shall be available for use on the premises.

**Insurance required under the *Strata Schemes Management Act* 1996**

76. The applicant shall reimburse to the Owners Corporation any additional insurance premium for insurance required under the strata legislation that is attributable to the presence of a brothel in Unit 1.

  
R Hussey  
Commissioner of the Court  
ljr



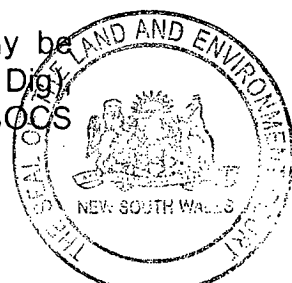
## ADVISORY NOTES

### Other Necessary Approvals

- A. The applicant's attention is drawn to the need to obtain Council's separate approval for any ancillary activity not approved by this consent, including:
- (a) Works, including the pruning or removal of any tree(s) not authorised in the preceding conditions or on the approved plans. Council's Tree Preservation Order protects trees by definition taller than 3.5m or having a trunk circumference exceeding 500mm measured one metre above ground level. If in doubt contact Council's Tree Management Officer.
  - (b) Any fencing located forward of the proposed building and exceeding the limitations specified in Schedule 1 of Development Control Plan No. 32 *"Guidelines for Exempt and Complying Development"*.
  - (c) The erection of any advertising sign, not being exempt from the need to obtain approval.
  - (d) The installation of any furnace, kilns, steam boiler, chemical plant, sand blast, spray painting booth or the like.

**NOTE:** \* If you carry out building work as an owner builder and sell your home within seven (7) years from the date of completion (date of final occupation certificate), then a Certificate of Insurance must be attached to your Contract of Sale.

- B. Section 97 of the Act provides that an applicant who is dissatisfied with the Council's determination of the Development Application may appeal to the Land and Environment Court within twelve (12) months of the date of determination, or as otherwise prescribed.
- C. Section 82A of the Act provides that an applicant may request, within twelve (12) months of the date of determination of the Development Application, that the Council review its determination (this does not apply to integrated or designated development). A fee is required for this review.
- D. The applicant and Owner are advised that the Commonwealth Disability Discrimination Act 1992 may apply to this particular proposal. Approval of this application does not imply or confer compliance with this Act. Applicants and owners should satisfy themselves as to compliance and make their own enquiries to the Human Rights and Equal Opportunity Commission. Attention is also drawn to the provisions of Parts 2, 3 and 4 of Australian Standard 1428 - Design for Access and Mobility.
- E. Information regarding the location of underground services may be obtained from Sydney One Call Service (NSW Dial Before You Dig) telephone 1100, Fax 1300 652 077. Inquirers should provide SOCS



with the street/road name and number, side of street/road and the nearest cross street/road.

- F. A Construction Certificate shall be obtained in accordance with Section 81A (2)(a) of the Act, prior to the commencement of any work on site. Council can provide this service for you.
- G. An Occupation Certificate is to be issued by the Principal Certifying Authority prior to the occupation of the building.

#### H. AMUSEMENT DEVICES

Premises which contain more than two amusement devices (pinball, video games, etc) are regarded as "amusement centres" and require approval from Council in accordance with Development Control Plan No. 14.

#### I. BANK GUARANTEES

Bank guarantees will be accepted from list of banks which have at least an "A" rating from Standard and Poors and at least an "A2" or "Prime-1" standard from Moodys Investor Services.

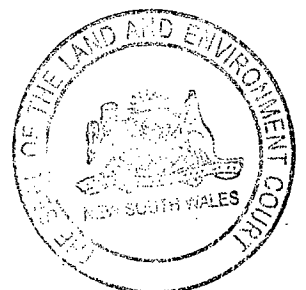
To enable the bank guarantee to be enforceable during an entire project with consideration for delays, **the guarantee must not contain a facility expiry date.**

To get to Standard and Poors [www.standardpoors.com](http://www.standardpoors.com) then from Ratings Action choose Ratings Lists. Then click on Financial Institutions followed by clicking on Financial Institutions Counterparty Ratings List. Go to "**Banks**" and download to Australian Banks.

To get to Moodys [www.moodys.com](http://www.moodys.com) then look up Ratings and then Banking and then Bank Ratings list. It will take you to Bank Credit Research page. Look at the table of contents and choose Global Bank Ratings by Country. Look up Australian Banks.

#### J. SMOKE DETECTORS

A system of self contained smoke alarms complying with the requirements of AS3786-1993, *Smoke Alarms* or listed in the *Scientific Services Laboratory Register of Accredited Products* being installed in the dwelling, connected to the mains power supply and provided with a standby power supply. Alarms are to be positioned on the ceiling and setback a minimum distance of 300mm from any wall. Alarms are to be placed in the vicinity of each area containing bedrooms with a minimum of one (1) alarm required for each storey of the dwelling.



K. WET AREAS

Wet areas in the dwelling are to be waterproofed in accordance with AS3740 *Waterproofing of wet areas within residential buildings*.

Where Council is the Principal Certifying Authority for the works, the submission of evidence of suitability for the waterproofing product used will be required at the wet area inspection stage. The evidence of suitability is to be in the form of:-

1. A current Certificate of Accreditation for the product.

AND

2. A certificate from the person responsible for the installation of the product advising that the product was applied in accordance with the relevant manufacturers specifications.

**Note:** Any copy of documentary evidence submitted, must be a complete copy of the original report or document.

L. LANDINGS

A landing having a minimum length of 750mm and a grade no steeper than 1:50, must be provided where the sill of a threshold of a doorway opens onto a stair that provides a change in floor level or floor to ground level greater than 3 risers or 570mm in accordance with Clause 3.9.1.3 (Stair Construction) of the Building Code of Australia.

M. CONSTRUCTION/OCCUPATION CERTIFICATE FEES

An administration fee of \$30.00 per certificate is payable to Council on lodgement of Construction and Occupation Certificates from Principal Certifying Authorities.

N. FIRE SAFETY

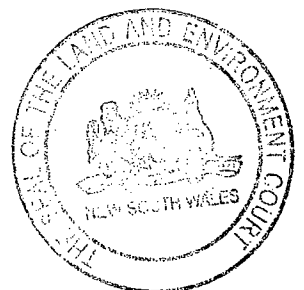
Paths of travel a minimum of 1000mm wide in accordance with D1.6 of the Building Code of Australia are to be clearly defined and line marked on the floor prior to occupation.

O. In accordance with the requirements of D1.10 of the Building Code of Australia:

- (a) bollards or some other method not less effective shall be provided to protect the discharge point of exit(s) and to prevent vehicles blocking the exit or access to the exit.



- (b) the path of travel to an exit, road or open space shall be protected by bollards, vehicular kerbs or other physical barrier to ensure the safe passage of persons.
- (c) a ramp having a gradient not steeper than 1:14 is to be provided to link the exit point to the public road.



**Annexure 'B'**

**PLAN OF MANAGEMENT**

**Staff**

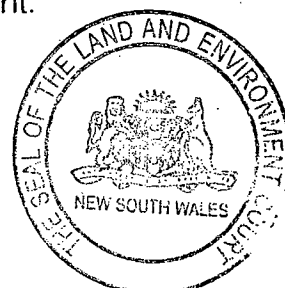
Two (2) staff (in addition to the sex workers) are to be on duty at all times to ensure safety of clients and workers, and for the general security of the premises.

**Manager's Duties**

- The operation of a front door and reception area.
- The allocation of a room for the sex worker.
- Collection of room rent from the client.
- Writing up of records known as a 'work sheet' to enhance safety and security (workers name, room allocated, time the room let, time vacated, etc).
- Seeing that both client and worker arrive and leave the premises in an orderly and quiet manner.
- Addressing any disagreements between workers and clients.
- Contacting the police if needed.
- Ensuring that if any person looks underage, they are asked to provide I.D before entering the premises.
- In case of an emergency, ensuring the necessary authorities are contacted.
- To oversee emergency procedures, e.g. evaluation of premises.
- Seeing that the worker and clients are supplied with safe sex needs.
- Ensuring that rooms are left presentable after use. This includes-changing linen as required, emptying waste bins, etc.
- Maintaining coffee, tea, milk supplies for workers.
- Keeping walkways clean and accessible.
- Maintaining 'time out' areas such as kitchens, and bathrooms throughout the shift.
- Ensure as far as possible that two staff members are on the ground floor or that sex workers are not left alone on the ground floor with clients.

**Security**

- Two staff in addition to the sex workers, must be on the premises at all times to ensure security. Two persons are better able to control situations such as robbery or violence, and to summon the police.
- An intercom system to each room ensures that the worker can alert the front desk to any problem that may arise with a client.
- Police contact details are kept at the front desk.
- The telephone system is to have "000" programmed into it.



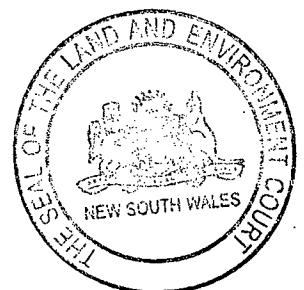
- An alarm system with a "duress alarm" is to be installed which can be activated from within the work rooms and be audible from staff areas (reception desk and office )
- Good lighting of the front door and passage ways is maintained.

### **Education**

- A notice board in the main area displays notices from; the police on current investigations; current referral information for Sex Workers to sexual health clinics, needle exchange, SWOP and other relevant agencies.
- A space is provided for agencies to carry out educational or other meetings with sex workers.
- A display space is available for information for sex workers and clients, such as HIV, STDs, etc.
- Client education material is displayed in the bedrooms.
- Staff training is held for harm minimisation (which may include self defence, street awareness, etc), needle stick injury, etc.
- The requirement for staff to attend training sessions on CPR.

### **Health and Safety**

- Good Lighting is provided in all rooms for checking clients.
- Immunisation of staff has been carried out for Hepatitis A & B and vaccination for Tetanus.
- Safe Sex supplies are provided by management free of charge, and other safe sex equipment required.
- Management is to liaise with the relevant authorities to ensure that necessary health and safety standards are adhered to, and ensure that updated information on safety issues is made available (e.g. on new strains of STDs).
- Spot cleaning is to be done where necessary to maintain hygiene.
- Fire extinguishers are accessible.



### **Restricted Access**

- Proof of Age shall be requested of sex workers or clients if Management cannot determine their age. Otherwise access is to be denied.
- Workers are not permitted to bring friends into the premises without permission of the Management.

### **Time Out Space**

- Space is provided for workers to rest.
- A Kitchen, Bathroom, Toilets and Showers, and a lounge area are provided for workers. They are permitted to take short naps in bedrooms not in use.

### **Presentation and Maintenance of Premises**

- It is the responsibility of the Manager to ensure that bedrooms are checked after each client; general areas are clean and presentable, with attention to the kitchen, bathrooms, and toilets as a priority. General maintenance of the property is attended to when required.

### **Illegal Activities on Premises**

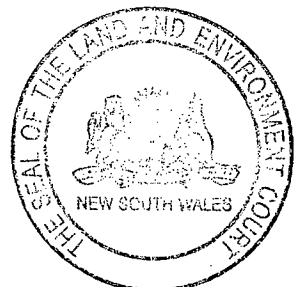
- Management shall not tolerate any illegal activities and may contact the police if necessary. Signs are displayed to address this issue.

### **Waste Disposal**

- A Contract Waste Service shall collect clinical and general waste.

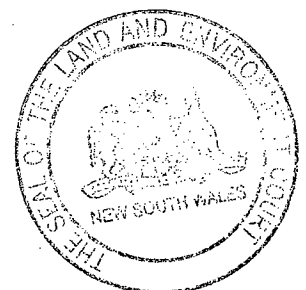
### **Cleaning of Premises**

- The Management shall be responsible for the cleaning of the premises during business hours. After business hours, a contract cleaner is employed.



**Emergency Procedures in Case of Fire or Disaster**

- The Manager is responsible for opening the security door, opening other emergency exits, directing a safe passage out and contacting emergency services.





**In the Land and  
Environment Court  
of New South Wales**

**No. 11031 of 2006**

**Wendy Wei**

Applicant

**Holroyd City  
Council**


Respondent

Order

**The Court orders that:**

1. The appeal is upheld.
2. Development consent is granted to DA 2007/105, for alterations to Unit 1, 181 McCredie Road, Guildford West to enable each use as a brothel, subject to the conditions in Annexure A.
3. The exhibits be returned except for 5, 6, 7, A, B and C.

Ordered: 29 March 2007

By the Court  
  
Seal of the Land and Environment Court of New South Wales  
Susan Dixon  
Registrar  
ljr

14

**Annexure "A"**  
**Conditions of Consent**

**Wendy Wei v Holroyd City Council**  
**PROPERTY: 1/181 McCredie Rd, Guildford West**

**DEFERRED COMMENCEMENT CONDITION**

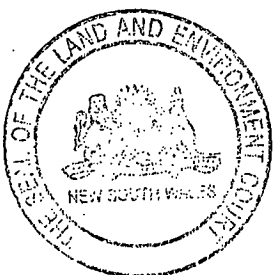
1. This consent does not operate until the applicant provides information satisfying Council of the following matter. This information shall be submitted to Council within 3 (three) months from the date of this deferred commencement consent.

The applicant shall provide written evidence demonstrating that insurances required under the *Strata Schemes Management Act 1996* can be obtained by the Owners Corporation, where the insurers are aware that Unit 1 is approved for use as a brothel.

Such evidence shall be obtained from not less than 3 "approved insurers" within the meaning of s95 of that Act.

**PRELIMINARY**

2. This consent shall lapse if the above development is not physically commenced within five (5) years of the date shown hereon..
3. Deleted.
4. Development shall take place in accordance with the attached endorsed plans/documentation:
  - Drawing Nos. 12161/DA/001, 12161/DA/002 (Rev. A), 12161/DA/003 Rev. B), 12161/DA/101, 12161/DA/102 (Rev. A) and 12161/DA/201 prepared by Archi-Dr Building Designers;
  - Statement of Environmental Effects for Proposed Brothel "Ying Yang Health Centre" (Report No. SEE-04-0133) dated 11 August 2006 prepared by PGH Environmental Planning;
  - Amended Plan of Management, Annexure "B" prepared by PGH Environmental Planning; and
  - Waste Management Plan dated 15 August 2006.
5. All building work shall be carried out in accordance with the requirements of the Building Code of Australia. Fully detailed plans including fire safety details shall be submitted with the Construction Certificate application. No work is to commence until such time as a Construction Certificate is obtained for the work/building permitted by this Consent.



**Appointment of Council or a Private Certifier as the Principal Certifying Authority (PCA)**

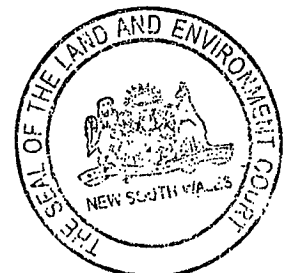
6. Either Council or a Private Certifier is to be appointed as the Principal Certifying Authority (PCA) for the development in accordance with Section 109E of the Act.

Accordingly, wherever reference is made to the Principal Certifying Authority in this Consent, it refers to Council or the Private Certifier as chosen by you.

**Note:** Once you have chosen either Council or a Private Certifier as the PCA, you cannot change from one to the other, or from one Private Certifier or another, without the approval of DIPNR.

7. The applicant shall consult with, as required:
- (a) Sydney Water Corporation Limited
  - (b) Integral Energy
  - (c) Natural Gas Company
  - (d) A local telecommunications carrier
- regarding their requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on site or on the adjacent public road(s).
8. The proposed structure/s are to be located clear of existing Council easements. Special footings will be required where the proposed/existing structures are adjacent to a drainage easement. The footings shall be taken down to the invert level of the existing drainage structure or to solid rock, whichever is the lesser. The footing depth may decrease by 500mm for every 1000mm increment in distance the footing is from the easement boundary.
- The footing system is to be designed by a practising professional structural engineer.

**NOTE: FEES AND BONDS INDICATED IN CONDITIONS OF THIS CONSENT MAY VARY IN ACCORDANCE WITH THOSE ADOPTED BY COUNCIL AT SUBSEQUENT ANNUAL REVIEWS OF ITS "FEES AND CHARGES". FEES CHARGED WILL BE THOSE CURRENT AT THE TIME OF PAYMENT.**



## PRIOR TO ISSUE/RELEASE OF CONSTRUCTION CERTIFICATE

The following conditions must be complied with prior to the issue of a Construction Certificate. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate:-

### Payment of Bonds, Fees and Long Service Levy

9. The Principal Certifying Authority is to ensure and obtain written proof that all bonds, fees and contributions as required by this consent have been paid to the applicable authority. This includes all Long Service Levy payments to be made to the Long Service Payments Corporation.

### Damage Deposit

10. A cash bond/bank guarantee of **\$1,940** must be paid/lodged with Council to cover making good any damage caused to the property of Council, by any works associated with the development. This will be held for 'six (6) months after the completion of works' or six (6) months after the issue of 'Final Occupation Certificate' (whichever occurs last) to remedy any defects that may arise within this time.

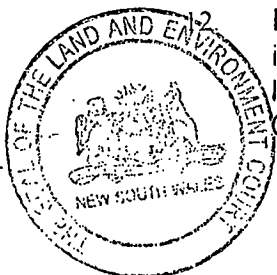
**Note:-** The applicant/owner shall be held responsible for and may be required to pay the full reinstatement costs for damage caused to Council's property (such as road pavement, kerb and guttering, footway, stormwater drainage etc), unless the applicant/owner notifies Council in writing and provides proof of any existing damage to Council's property. However, if in the opinion of Council, works associated with the development have worsened any existing damage, Council may require full reinstatement. If damage does occur during construction, prior to reinstating any damage to Council's property, the applicant/owner shall obtain design specifications of all proposed restoration works. Restoration/construction works within the road reserve shall be carried out by a licensed construction contractor at the applicant/owners expense and shall be inspected by Council prior to placement of concrete and/or asphalt.

### Consistency with Endorsed Development Consent Plans

11. The Principal Certifying Authority must ensure that any certified plans forming part of the Construction Certificate, are in accordance with the Development Consent plans.

### Required Submissions to Certifying Authority

Details of the location of existing and proposed fire safety services including portable fire extinguishers, fire hose reels and emergency lighting shall be submitted to the PCA, prior to issue of the Construction Certificate.



13. A current Fire Safety Schedule and Annual Fire Safety Certificate for the unit shall be submitted to the PCA, prior to issue of the Construction Certificate.
14. A structural engineers report, demonstrating the proposed development can be constructed as per the submitted DA plans with no works to the common property (e.g., no alterations or penetrations to ground floor slab, surrounding walls, ceiling and roof which are common property) shall be submitted to the PCA, prior to issue of the Construction Certificate.
15. Details shall be provided on the Construction Certificate plans demonstrating the design of the ground floor meets the standards for disabled access, prior to issue of the Construction Certificate.

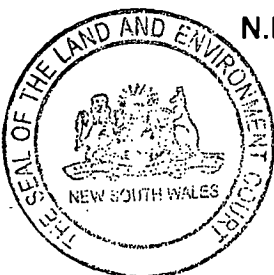
#### **PRIOR TO WORKS COMMENCING**

**The following conditions are to be complied with prior to any works commencing on the site:**

##### **Appointment of Principal Certifying Authority and Notification of Commencement of Work**

16. The person having the benefit of the development consent, not the principal contractor (builder), must: -
  - a) appoint a Principal Certifying Authority in accordance with Section 81A(2)(b) of the Act.
  - b) Have the Principal Certifying Authority complete the 'Accredited Certifier Details' on the approved form provided by Council for this purpose, an original of which is attached to this Development Consent.
  - c) Notify Council of the appointment of the Principal Certifying Authority and of the intention to commence building work, such notification is to be given to Council at least two (2) working days prior to the proposed commencement date, and be on the approved form provided by Council for this purpose, an original of which is attached to this Development Consent.

*If nominated, Council can provide this service for you and act as the Principal Certifying Authority.*



**N.B.** The Principal Certifying Authority must also notify the person having the benefit of the Development Consent of any mandatory critical stage inspections and other inspections that are to be carried out in respect of the building work such notification must comply with Clause 103A of the Regulations.

### Notification of Principal Contractor (Builder)/Owner-Builder

17. The person having the benefit of the Development Consent must:-
- (a) notify the Principal Certifying Authority that the person will carry out the work as an owner-builder, if that is the case;

OR

- (b) Appoint a Principal Contractor for the building work (who must be the holder of a contractor licence if any residential building work is involved), and notify the Principal Contractor of any mandatory critical stage inspections and other inspections that are to be carried out in respect of the building work.
- (c) notify the Principal Certifying Authority of any such appointment.

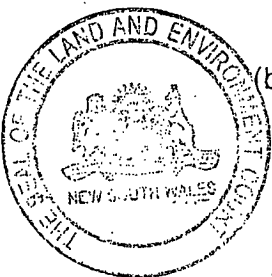
Where Council is the Principal Certifying Authority, such notification is to be on the approved form provided by Council for this purpose, an original of which is attached to this Development Consent.

### Fencing of Sites

18. In the event that the Owners Corporation resolve to install a power-operated security gate on the southern side of the roller door of Unit 1 to separate the brothel car parking from the remainder of the site, the Applicant shall contribute towards the costs of the gate an amount equal to 25% of the costs of the gate if it was located on the northern side of Unit 1 together with any additional amount to install the gate on the southern side of Unit 1. The gate shall comprise a fixed panel for the length of the adjacent carparking space and an opening section across the access driveway. The gate shall be a minimum of 1.8m height of steel palisade construction. Arrangements shall be made with emergency service authorities to enable emergency access to the rear of the property to be obtained at any time, including in the event of a power failure.

### Signs to be Erected on Sites

19. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted **outside working hours and at any time for business purposes**, and



- (c) stating that unauthorised entry to the work site is prohibited.

The sign must be rigid and durable and be read easily by anyone in any public road or other public place adjacent to the site.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

**Note:** Principal Certifying Authorities and Principal Contractors must also ensure that signs required by this clause are erected and maintained (clause 227A of the Regulations currently imposes a maximum penalty of \$1,100).

#### **Prohibited Signage**

20. Advertising, Real Estate Agents, Architects, Designers, site suppliers and any other signage not mentioned in the conditions, is not to be placed or displayed on the site, such that the signage is visible from any public place or the communal property of the strata plan. Offenders may be prosecuted.

#### **Protection of Public Places**

21. A hoarding or fence must be erected between the work site and any public place, if the work involved in the erection or demolition of the building; is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

#### **Site Control Measures**

22. Suitable erosion and sediment control measures shall be provided at all vehicular entry/exit points and all other measures required with and/or shown on plans accompanying the Construction Certificate, to control soil erosion and sedimentation, are to be in place prior to the commencement of construction works. Such controls are to be provided in accordance with Holroyd City Council's "Erosion & Sediment Control Policy."



**Note:** On-the-spot fines may be issued by council where measures are absent or inadequate.

### **Footpaving, Kerbing and Guttering**

23. Protection must be provided for Council footpaving, kerbing and guttering. Wooden mats must also be provided at all entrances where the site fronts paved footpaths.

### **Support for Neighbouring Buildings**

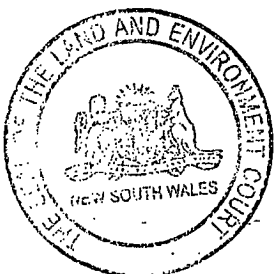
24. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land (including a public road and any other public place), the person causing the excavation to be made:-
- a) must preserve and protect the building from damage, and
  - b) if necessary, must underpin and support the building in an approved manner, and
  - c) must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the building being erected or demolished.
- The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land. (In this clause, *allotment of land* includes a public road and any other public place).

### **Toilet Facilities**

25. Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- a) Must be a standard flushing toilet, and
- b) Must be connected:
  - i) To a public sewer,
  - ii) If connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
  - iii) If connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.
- iv) The position of the toilet on the site shall be determined by Council's Building Surveyor and/or Sydney Water.





## DURING CONSTRUCTION

The following conditions are applicable during construction:-

### Endorsed Plans & Specifications

26. A copy of the endorsed stamped plans and specifications, together with a copy of the Development Consent, Construction Certificate and approved Traffic Management Plan are to be retained on site at all times.

### Hours of Work & Display of Council Supplied Sign

27. For the purpose of preserving the amenity of neighbouring occupations building work including the delivery of materials to and from the site is to be restricted to the hours of 7.00am to 6.00pm Mondays to Fridays and 8.00am to 4.00pm Saturdays. Work on the site on Sundays and Public Holidays is prohibited. **Note: Demolition work is not permitted on weekends or Public Holidays - refer to specific demolition condition for approved hours.**

The yellow "Hours of Building Work" sign (supplied by Council with the approval), is to be displayed in a prominent position at the front of the site for the duration of the work.

### Site Control

28. Builder's refuse disposal and storage facilities are to be provided on the development site for the duration of construction works and all rubbish shall be removed from the site upon completion of the project.
29. Stockpiles of sand, soil and other material shall be stored clear of any drainage line or easement, tree protection zone, water bodies, footpath, kerb or road surface and shall have erosion and sediment control measures in place to prevent the movement of such materials onto the aforementioned areas and adjoining land.

### Asbestos Cement Sheeting

30. i) All asbestos cement sheeting must be removed by contractors with an appropriate licence issued by WorkCover and who are familiar with asbestos removal prior to the commencement of:-
- (a) Recladding or brick veneering of any building where the existing walls to be covered are currently clad with asbestos cement;

OR



- (b) Construction work where new work abuts existing asbestos cement sheeting and/or where parts of the existing building clad with asbestos cement sheeting are to be altered or demolished.

Removal must be carried out strictly in accordance with WorkCover's "Your Guide to Working with Asbestos" (copy attached).

- ii) All asbestos laden waste, including asbestos cement flat and corrugated sheets must be disposed of at a tipping facility licensed by the Department of Environment and Conservation (DEC).

**Note:** The person responsible for disposing of the above asbestos waste is to telephone the DEC on (02) 9995 5000 or Council's Waste Officer on (02) 9840 9715 to determine the location of a tip licensed to receive asbestos. **Upon completion of tipping operations the applicant shall lodge with the Council, all receipts issued by the receiving tip as evidence of proper disposal.**

- iii) Within fourteen (14) days of completion of renovation or recladding or brick veneering works where asbestos cement sheeting was removed, the applicant shall submit to Council an asbestos clearance certificate prepared by a NATA accredited occupational hygienist.

**Note:** To find a list of NATA accredited facilities visit the NATA website at [www.nata.asn.au](http://www.nata.asn.au) and click on 'Find a Facility', select 'Directory', type 'asbestos' into the search box and click on 'Search'.

### **Waste Management Plan**

- 31. The approved Waste Management Plan must be implemented and complied with during all stages of works on site.
- 32. Within seven (7) days of completion of construction/building works, the applicant shall submit a signed statement to Council or the Principal Certifying Authority verifying that demolition work and recycling of materials was undertaken in compliance with the Waste Management Plan. The Principal Certifying Authority shall submit a copy of the statement to Council.

***In reviewing such documentation Council will require the provision of actual weighbridge receipts for the recycling/disposal of all materials.***

**Compliance with Critical Stage Inspections and other Inspections nominated by the Principal Certifying Authority**



33. Section 109E(d) of the Act requires certain specific inspections (prescribed by clause 162A of the Regulations) and known as 'Critical Stage Inspections' to be carried out for building work. Prior to permitting commencement of the work your Principal Certifying Authority is required to give notice of these inspections pursuant to clause 103A of the Regulations.

**N.B.** An Occupation Certificate cannot be issued and the building may not be able to be used or occupied where any mandatory critical stage inspections or other inspections required by the Principal Certifying Authority are not carried out.

Where Council is nominated as Principal Certifying Authority, notification of all inspections required is provided with the Construction Certificate approval.

#### **Vehicle Cleansing**

34. Concrete trucks and trucks used for the transportation of building materials shall not traffic soil, cement or similar materials onto the road. Hosing down of vehicle tyres shall be conducted in a suitable off-street area where wash water is prevented from entering the stormwater system or adjoining property.

#### **Additional Information during Remediation/Demolition/Construction**

35. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council immediately.

#### **PRIOR TO ISSUE OF FINAL OCCUPATION CERTIFICATE**

The following conditions are to be complied with prior to the issue of a final occupation certificate:-

#### **Certificates/Documentary Evidence**

36. A final clearance is to be obtained from Integral Energy if such clearance has not previously been issued.
37. A Structural Engineer's certificate from the supervising structural engineer responsible for the design shall be submitted to the Principal Certifying Authority and shall state that all foundation works/reinforced concrete/structural members have been carried out/erected in accordance with the Engineer's requirements and the relevant SAA Codes.



**Note:** Any such certificate is to set forth the extent to which the engineer has relied on relevant specifications, rules, codes of practice or publications in respect of the construction.

#### **Parking/Driveway**

- 38. All dwellings/units and associated car parking spaces shall be numbered on site in accordance with numbering on the endorsed plans.
- 39. The driveway shall be signposted indicating availability of visitor off-street parking. Spaces reserved for this purpose shall be marked as such.

#### **House/Street Number**

- 40. A house/street number must be displayed on all newly developed properties in accordance with Council's "Policy on the Display of House Numbers" available from the Customer Services Counter or Council's website, [www.holroyd.nsw.gov.au](http://www.holroyd.nsw.gov.au).

#### **Removal of Signage on Change of Occupation**

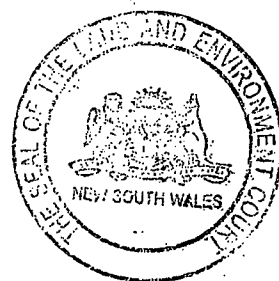
- 41. All signage associated with the previous use is to be removed from the premises.

#### **General**

- 42. Documentary evidence and/or certificate of compliance must be submitted to Council to show that all works have been completed in accordance with this Development Consent and its accompanying Construction Certificate.

#### **Signage**

- 43. Signage for the brothel is to be limited to one sign (maximum 600mm x 1100mm) reading "Ying Yang Health Centre" comprising black lettering on an illuminated white background. The sign shall be located on the ground floor eastern elevation of Unit 1 in the immediate vicinity of the entry door. No signs are to be placed on the McCredie Road elevation or the upper level mezzanine façade. The sign shall only be illuminated during the approved hours of operation.



## CONDITIONS RELATING TO USE

The following conditions are applicable to the use of the development:-

### Plan of Management

44. The brothel shall be operated at all times in accordance with the plan of management (POM)(Exhibit C) a copy of which is annexure "B" hereto. A 24-hour contact number is to be provided to the Owners Corporation, tenants and Council.

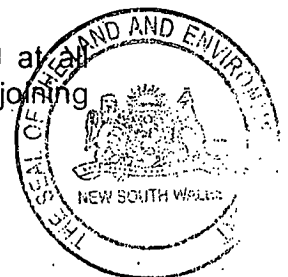
An Incident Log (or computerised record) shall be maintained in which are recorded details of any incident or complaint regarding the use (including time, date, nature of incident/complaint, name and contact number of complainant). The Incident Log shall record action taken in response to reports and the outcome achieved.

The Incident Log shall be submitted to Council on a 6-monthly basis for Council's records.

The operator of the brothel shall prepare, on an annual basis (on the anniversary of the date of the Occupation Certificate) a report that reviews the POM and identifies the need to modify/update the POM. The updated POM shall not remove any existing requirement of the POM unless it is necessary to provide an adequate response to an identified issue and the reasons are documented in the report. Copy of the report and undated POM shall be submitted to Council for its records.

### Safety & Amenity

45. No signs or goods are to be displayed or trading of any description is to be carried out on the public road, public footpath, utility service land, customer and/or employee parking area, the driveways or pedestrian walkways outside or in the immediate vicinity of the premises.
46. For the purposes of preserving the amenity of neighbouring occupations and residents, hours of operation are to be restricted to between:-
- 10.00am and 10pm Monday to Friday; and  
10.00am and 8.00pm Saturdays.
47. All activities are to be confined within the building and no such activity shall occur externally to the building and this shall include loading and unloading, also storage of new and used materials.
48. Business is to be conducted and patrons are to be controlled at all times so that no interference occurs to the amenity of the adjoining occupations.



49. Where an intruder alarm is installed on the premises it shall be fitted with a timing device in accordance with the requirements of the Protection of the Environment Operations Act 1997.
50. No more than three (3) sex workers shall operate from the premises at any time and not more than one client shall attend a service room at any one time. Service of multiple clients at any one time is not permitted.

### Health Conditions

51. NSW Health and WorkCover NSW have developed detailed guidelines known as "*Health and Safety Guidelines for Brothels in NSW – Guide 2001*" which address the key occupational health and safety responsibilities for those involved in the sexual services industry. It is a requirement of Council and the responsibility of brothel proprietors and principal sex workers that a full copy of the Guidelines is obtained and utilised at the premises. The Guidelines can be obtained from WorkCover NSW Ph: 1300 799 003.
52. The business is to operate in strict compliance with the relevant provisions of Holroyd City Council's Development Control Plan No. 25 - "Planning Controls for Brothels".
53. The premises shall be maintained in a clean, sanitary condition and kept in a satisfactory state of repair at all times. No linen, waste or any other materials or items associated with the use may be placed outside the building at any time.
54. The proprietor must provide clean linen (or a clean cover) and towels for the use of each client.
55. All linen, including towelling and other bed coverings which comes into contact with clients shall be changed immediately after each use.
56. An adequate number of receptacles (suitably stored within the building and protected from contamination) shall be provided for the separate storage of used and clean linen.
57. The proprietor shall, whilst the premises is operating, regularly change coverings used on beds, furnishings or the like.
58. The proprietor shall, whilst the premises is operating, immediately change any coverings used on beds, furnishing or the like that are visibly stained with body fluids.

It is recommended that private contractors be used to launder towels, sheets and linen. If laundering is carried out on the premises, then the



proprietor must install and use a commercial washing machine capable of washing at a temperature of not less than 70°C.

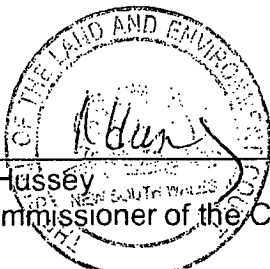
60. All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined within the Protection of the Environment Operations Act 1997. All waste generated shall be disposed of by an authorised contractor.
61. Adequate facilities shall be provided for the disposal of used condoms, soiled tissues and other waste products of sexual activity in all rooms, cubicles, booths or the like where sexual activity occurs.
62. The operator shall ensure that the workplace meets the requirements of the Occupational Health & Safety Act.
63. The proprietor shall ensure that all sex workers undertake regular health check-ups.
64. **Note:** The proprietors attention is drawn to the provisions of Section 13 of the Public Health Act 1991, which makes it an offence to knowingly permit sex workers suffering from a sexually transmissible disease to have sexual intercourse with other persons unless the client has been informed of the risk and voluntarily agrees to accept the risk.
65. The proprietor shall provide written information, ie. pamphlets and brochures for sex workers and clients on sexually transmitted infectious diseases in a variety of languages including those of any sex worker who has difficulty communicating in and/or reading the English language.
66. The proprietor shall ensure that sex workers receive appropriate induction, are adequately trained and continually being provided with updated information to examine clients for any visible evidence of sexually transmitted diseases, and that examinations are conducted before any sexual contact.
67. The practice of safe sex should be the basis on which the brothel operates. The proprietor shall supply an adequate supply of condoms, dental dams and water based lubricant free of charge for sex workers and their clients. Condom vending machines are not permitted as a means of supply.
68. That the premises shall be provided with artificial lighting to provide a level of illumination appropriate to the function or use of the building/spaces to enable safe use and movement of occupants in accordance with Part F4 of the BCA.



69. The lighting system being appropriately zoned to facilitate cleaning of rooms, cubicles, booths or the like during times when the premises is commercially open.
70. The lighting to all rooms, cubicles, booths or the like shall be fitted with user adjustable dimmer switches or the like to assist safe sexual practices.
71. Each room, cubicle, booth or the like shall contain its own sanitary facilities (including toilet, shower/bath and a wash hand basin) for the use of both sex workers and clients.
72. All required wash hand basins shall be provided with an adequate supply of potable warm water, at a temperature of at least 40°C, under mains pressure, mixed through a common outlet.
73. Liquid soap and disposable hand towels shall be provided near all required wash hand basins on the premises.
74. Equipment which cannot tolerate immersion must be cleaned by wiping with detergent and water and then disinfected by wiping with either a solution of one part bleach to two parts water or 70% alcohol, rinsed and allowed to dry prior to use. Cleaning and disinfection should be compatible with the manufacturer's instructions.
75. Only single-use douche tubes of medical quality shall be available for use on the premises.

**Insurance required under the *Strata Schemes Management Act* 1996**

76. The applicant shall reimburse to the Owners Corporation any additional insurance premium for insurance required under the strata legislation that is attributable to the presence of a brothel in Unit 1.

  
R Hussey  
Commissioner of the Court  
ljr



## ADVISORY NOTES

### Other Necessary Approvals

- A. The applicant's attention is drawn to the need to obtain Council's separate approval for any ancillary activity not approved by this consent, including:
- (a) Works, including the pruning or removal of any tree(s) not authorised in the preceding conditions or on the approved plans. Council's Tree Preservation Order protects trees by definition taller than 3.5m or having a trunk circumference exceeding 500mm measured one metre above ground level. If in doubt contact Council's Tree Management Officer.
  - (b) Any fencing located forward of the proposed building and exceeding the limitations specified in Schedule 1 of Development Control Plan No. 32 *"Guidelines for Exempt and Complying Development"*.
  - (c) The erection of any advertising sign, not being exempt from the need to obtain approval.
  - (d) The installation of any furnace, kilns, steam boiler, chemical plant, sand blast, spray painting booth or the like.

**NOTE:** \* If you carry out building work as an owner builder and sell your home within seven (7) years from the date of completion (date of final occupation certificate), then a Certificate of Insurance must be attached to your Contract of Sale.

- B. Section 97 of the Act provides that an applicant who is dissatisfied with the Council's determination of the Development Application may appeal to the Land and Environment Court within twelve (12) months of the date of determination, or as otherwise prescribed.
- C. Section 82A of the Act provides that an applicant may request, within twelve (12) months of the date of determination of the Development Application, that the Council review its determination (this does not apply to integrated or designated development). A fee is required for this review.
- D. The applicant and Owner are advised that the Commonwealth Disability Discrimination Act 1992 may apply to this particular proposal. Approval of this application does not imply or confer compliance with this Act. Applicants and owners should satisfy themselves as to compliance and make their own enquiries to the Human Rights and Equal Opportunity Commission. Attention is also drawn to the provisions of Parts 2, 3 and 4 of Australian Standard 1428 - Design for Access and Mobility.
- E. Information regarding the location of underground services may be obtained from Sydney One Call Service (NSW Dial Before You Dig) telephone 1100, Fax 1300 652 077. Inquirers should provide SOCS



with the street/road name and number, side of street/road and the nearest cross street/road.

- F. A Construction Certificate shall be obtained in accordance with Section 81A (2)(a) of the Act, prior to the commencement of any work on site. Council can provide this service for you.

- G. An Occupation Certificate is to be issued by the Principal Certifying Authority prior to the occupation of the building.

H. AMUSEMENT DEVICES

Premises which contain more than two amusement devices (pinball, video games, etc) are regarded as "amusement centres" and require approval from Council in accordance with Development Control Plan No. 14.

I. BANK GUARANTEES

Bank guarantees will be accepted from list of banks which have at least an "A" rating from Standard and Poors and at least an "A2" or "Prime-1" standard from Moodys Investor Services.

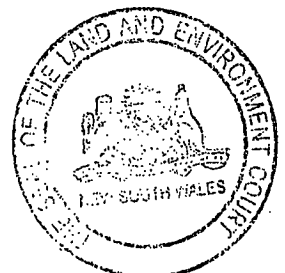
To enable the bank guarantee to be enforceable during an entire project with consideration for delays, **the guarantee must not contain a facility expiry date.**

To get to Standard and Poors [www.standardpoors.com](http://www.standardpoors.com) then from Ratings Action choose Ratings Lists. Then click on Financial Institutions followed by clicking on Financial Institutions Counterparty Ratings List. Go to **"Banks"** and download to Australian Banks.

To get to Moodys [www.moodys.com](http://www.moodys.com) then look up Ratings and then Banking and then Bank Ratings list. It will take you to Bank Credit Research page. Look at the table of contents and choose Global Bank Ratings by Country. Look up Australian Banks.

J. SMOKE DETECTORS

A system of self contained smoke alarms complying with the requirements of AS3786-1993, *Smoke Alarms* or listed in the *Scientific Services Laboratory Register of Accredited Products* being installed in the dwelling, connected to the mains power supply and provided with a standby power supply. Alarms are to be positioned on the ceiling and setback a minimum distance of 300mm from any wall. Alarms are to be placed in the vicinity of each area containing bedrooms with a minimum of one (1) alarm required for each storey of the dwelling.



K. WET AREAS

Wet areas in the dwelling are to be waterproofed in accordance with AS3740 *Waterproofing of wet areas within residential buildings*.

Where Council is the Principal Certifying Authority for the works, the submission of evidence of suitability for the waterproofing product used will be required at the wet area inspection stage. The evidence of suitability is to be in the form of:-

1. A current Certificate of Accreditation for the product.

AND

2. A certificate from the person responsible for the installation of the product advising that the product was applied in accordance with the relevant manufacturers specifications.

**Note:** Any copy of documentary evidence submitted, must be a complete copy of the original report or document.

L. LANDINGS

A landing having a minimum length of 750mm and a grade no steeper than 1:50, must be provided where the sill of a threshold of a doorway opens onto a stair that provides a change in floor level or floor to ground level greater than 3 risers or 570mm in accordance with Clause 3.9.1.3 (Stair Construction) of the Building Code of Australia.

M. CONSTRUCTION/OCCUPATION CERTIFICATE FEES

An administration fee of \$30.00 per certificate is payable to Council on lodgement of Construction and Occupation Certificates from Principal Certifying Authorities.

N. FIRE SAFETY

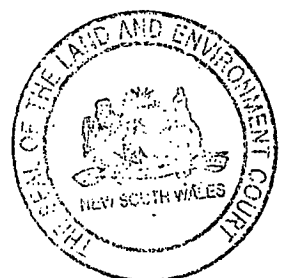
Paths of travel a minimum of 1000mm wide in accordance with D1.6 of the Building Code of Australia are to be clearly defined and line marked on the floor prior to occupation.

O. In accordance with the requirements of D1.10 of the Building Code of Australia:

- (a) bollards or some other method not less effective shall be provided to protect the discharge point of exit(s) and to prevent vehicles blocking the exit or access to the exit.



- (b) the path of travel to an exit, road or open space shall be protected by bollards, vehicular kerbs or other physical barrier to ensure the safe passage of persons.
- (c) a ramp having a gradient not steeper than 1:14 is to be provided to link the exit point to the public road.



## Annexure 'B'

### PLAN OF MANAGEMENT

#### Staff

Two (2) staff (in addition to the sex workers) are to be on duty at all times to ensure safety of clients and workers, and for the general security of the premises.

#### Manager's Duties

- The operation of a front door and reception area.
- The allocation of a room for the sex worker.
- Collection of room rent from the client.
- Writing up of records known as a 'work sheet' to enhance safety and security (workers name, room allocated, time the room let, time vacated, etc).
- Seeing that both client and worker arrive and leave the premises in an orderly and quiet manner.
- Addressing any disagreements between workers and clients.
- Contacting the police if needed.
- Ensuring that if any person looks underage, they are asked to provide I.D before entering the premises.
- In case of an emergency, ensuring the necessary authorities are contacted.
- To oversee emergency procedures, e.g. evaluation of premises.
- Seeing that the worker and clients are supplied with safe sex needs.
- Ensuring that rooms are left presentable after use. This includes changing linen as required, emptying waste bins, etc.
- Maintaining coffee, tea, milk supplies for workers.
- Keeping walkways clean and accessible.
- Maintaining 'time out' areas such as kitchens, and bathrooms throughout the shift.
- Ensure as far as possible that two staff members are on the ground floor or that sex workers are not left alone on the ground floor with clients.

#### Security

- Two staff in addition to the sex workers, must be on the premises at all times to ensure security. Two persons are better able to control situations such as robbery or violence, and to summon the police.
- An intercom system to each room ensures that the worker can alert the front desk to any problem that may arise with a client.
- Police contact details are kept at the front desk.
- The telephone system is to have "000" programmed into it.



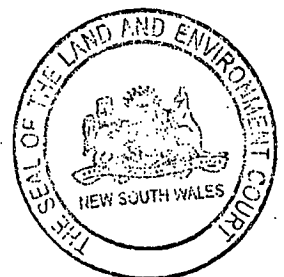
- An alarm system with a "duress alarm" is to be installed which can be activated from within the work rooms and be audible from staff areas (reception desk and office )
- Good lighting of the front door and passage ways is maintained.

### **Education**

- A notice board in the main area displays notices from; the police on current investigations; current referral information for Sex Workers to sexual health clinics, needle exchange, SWOP and other relevant agencies.
- A space is provided for agencies to carry out educational or other meetings with sex workers.
- A display space is available for information for sex workers and clients, such as HIV, STDs, etc.
- Client education material is displayed in the bedrooms.
- Staff training is held for harm minimisation (which may include self defence, street awareness, etc), needle stick injury, etc.
- The requirement for staff to attend training sessions on CPR.

### **Health and Safety**

- Good Lighting is provided in all rooms for checking clients.
- Immunisation of staff has been carried out for Hepatitis A & B and vaccination for Tetanus.
- Safe Sex supplies are provided by management free of charge, and other safe sex equipment required.
- Management is to liaise with the relevant authorities to ensure that necessary health and safety standards are adhered to, and ensure that updated information on safety issues is made available (e.g. on new strains of STDs).
- Spot cleaning is to be done where necessary to maintain hygiene.
- Fire extinguishers are accessible.



### **Restricted Access**

- Proof of Age shall be requested of sex workers or clients if Management cannot determine their age. Otherwise access is to be denied.
- Workers are not permitted to bring friends into the premises without permission of the Management.

### **Time Out Space**

- Space is provided for workers to rest.
- A Kitchen, Bathroom, Toilets and Showers, and a lounge area are provided for workers. They are permitted to take short naps in bedrooms not in use.

### **Presentation and Maintenance of Premises**

- It is the responsibility of the Manager to ensure that bedrooms are checked after each client; general areas are clean and presentable, with attention to the kitchen, bathrooms, and toilets as a priority. General maintenance of the property is attended to when required.

### **Illegal Activities on Premises**

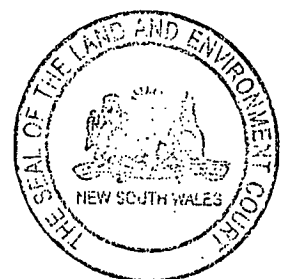
- Management shall not tolerate any illegal activities and may contact the police if necessary. Signs are displayed to address this issue.

### **Waste Disposal**

- A Contract Waste Service shall collect clinical and general waste.

### **Cleaning of Premises**

- The Management shall be responsible for the cleaning of the premises during business hours. After business hours, a contract cleaner is employed.



**Emergency Procedures in Case of Fire or Disaster**

- The Manager is responsible for opening the security door, opening other emergency exits, directing a safe passage out and contacting emergency services.

