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Department Generated Correspondence (Y)

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Our ref: PP_2011_BLACK_008_00 (11/20876)
Your ref: NZ-11-1986

Mr Ron Moore
General Manager
Blacktown City Council
PO Box 63
BLACKTOWN NSW 2148

Dear Mr Moore,

Re: Planning Proposal to amend clause 42A (1)(ab) of the Blacktown Local Environmental Plan 1988 to increase the separation distance required between brothels from 200 metres to 400 metres in industrial zones

I am writing in response to your Council's letter dated 14 November 2011 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend clause 42A (1)(ab) of the Blacktown Local Environmental Plan 1988 to increase the separation distance required between brothels from 200 metres to 400 metres in industrial zones.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should not proceed for the reasons outlined in the attached Gateway Determination.

At this stage, the planning proposal is not adequately supported by sufficient strategic justification to proceed. The planning proposal fails to demonstrate why an increase of 200 metres in the separation distance between potential brothel locations (ie from 200m to 400m) should be supported on land use planning principles. The planning proposal does not demonstrate how increasing the separation distance will achieve the objectives of the plan including maintaining the amenity of the streetscape and character of the local area, and reducing the potential for adverse social and environmental impacts. In addition the planning proposal does not demonstrate, with appropriate evidence that permitting brothels using the current controls will result in a downturn in trade or investment in the area.

Should Council wish to pursue the option of amending its LEP to achieve a greater separation between brothels in the future, it is encouraged to provide information which clearly considers and details the cumulative impacts of brothels in the Blacktown LGA. Any future planning proposal should also be supported by appropriate analysis which consider both supply and demand aspects associated with locating sex services premises within the LGA.

Council should also consider this matter further during the preparation of its Standard Instrument LEP. In doing so, Council's attention is brought to the Department's Model Local Provision for sex services premises which states:

6.6 Restriction on consent for particular sex services premises [local]

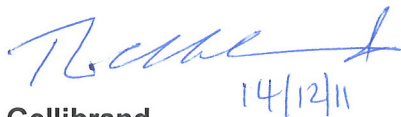
- (1) *Development consent must not be granted for development for the purposes of sex services premises if the premises will be located on land that adjoins, or that is separated only by a road from, land:*

- (a) *in Zone R1 General Residential, Zone R2 Low Density Residential or Zone R3 Medium Density Residential, or*
 - (b) *used as a place of public worship or for community or school uses, or*
 - (c) *in Zone RE1 Public Recreation.*
- (2) *In deciding whether to grant consent to any such development, the consent authority must take into account the impact that the proposed development would have on children who use the land.*

Council will note that the above model clause (available on the Department's website) does not include a specific distance separation for sex services premises. In general this is due to the fact that there is concern that including such a provision would potentially create sub-zones which are not permitted under the Standard Instrument. In this case, Council would therefore be encouraged to including appropriate provisions in its Development Control Plan which ensure that the cumulative impacts of development for sex services premises are considered as part of an assessment of any proposal. The Department's Regional Planning team will be able to work with Council to discuss and resolve this matter further.

Should you have any queries in regard to this matter, please contact Ms Claire Mirow of the Regional Office of the Department on 02 9873 8597.

Yours sincerely,



14/12/11

Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal

Gateway Determination

Planning Proposal (Department Ref: PP_2011_BLACK_008_00): to amend clause 42A (1)(ab) of the Blacktown Local Environmental Plan 1988 to increase the separation distance required between brothels from 200 metres to 400 metres in industrial zones.

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to clause 42A (1)(ab) of the Blacktown Local Environmental Plan 1988 to increase the separation distance required between brothels from 200 metres to 400 metres in industrial zones should not proceed for the following reasons:

1. Council has not provided sufficient ~~strategic~~ justification for the proposal to proceed in its current form.
2. Council has not demonstrated in the information provided with the planning proposal how the proposed increase in separation distance will achieve the stated objectives of the planning proposal.
3. Council has not adequately demonstrated that the introduction of the increased separation distance will not create a situation where it is unduly restrictive for sex services premises to locate in zones where this land use is permitted.

Dated 14th day of December 2011.



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning and
Infrastructure