

A decorative graphic on the right side of the page. It features three concentric circles in shades of green. The top circle is the largest, the middle one is smaller, and the bottom one is the smallest. Two thin green lines intersect the circles, creating a geometric pattern.

**Planning Proposal - Blacktown Local Environmental
Plan 1988**

**Blacktown Local Environmental Plan 1988 Amendment
No. 236**

Amendment to Clause 42A of Blacktown Local
Environmental Plan 1988 (BLEP 1988) to Increase
Distance Separation Between Brothels from 200m to
400m

**City of Blacktown
October 2011**

PLANNING PROPOSAL

Draft Local Environmental Plan for Clause Amendment (Clause 42A) to Increase Distance Separation between Brothels from 200m to 400m.

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Introduction

Brothels are permissible with Development Consent in the following Industrial areas, being land zoned 4(a) General Industrial and 4(b) Light Industrial within the City of Blacktown:

- i) Seven Hills
- ii) Blacktown
- iii) Riverstone
- iv) Glendenning
- v) Arndell Park

Brothels are not permitted in other zones. Currently there are 2 approved brothels operating in the Blacktown Local Government Area. They exist at 40 Forge Street, Blacktown which is 280m away by straight line distance from another brothel located at Carnegie Place, Blacktown. An application for a proposed brothel was refused by Council at 1/18 Forge Street, Blacktown however this was subsequently approved through an Appeal in the Land and Environment Court. The same Applicant has also lodged a Development Application for a brothel in Foundry Road, Seven Hills.

Industrial sites have been identified as employment land in the North West Subregional Strategy. Part of Seven Hills and Blacktown industrial areas fall within Urban Renewal Precincts (URPs) that have been identified for improvement and redevelopment as part of Council's Standard Instrument LEP. Consequently, Council is concerned that the current 200m distance separation is inadequate in preventing a proliferation of brothels in these key employment areas. Council considers that a greater distance separation would assist in reducing a possible proliferation of brothels that could lead to the industrial areas becoming "red-light" districts, which may result in a downturn in trade and investment in the area.

The purpose of this Planning Proposal is to amend Clause 42A of Blacktown Local Environmental Plan (LEP) 1988 to increase the existing distance separation between brothels from 200m to 400m to avoid the potential concentration of brothels in close proximity to each other to an extent where they become a noticeable element within the streetscape so as to potentially form "red-light" districts. This LEP Amendment is a direct result of a Council Resolution on 8 June 2011.

The existing provision of 200m distance separation between brothels became effective on 7 November 2008, as Amendment No. 199 to Blacktown Local Environmental Plan 1988. By way of background, the draft LEP was exhibited between 10 March and 7 April 2004. The exhibited version which was supported by the NSW Police (Quakers Hill) and the Department of Education and Training, proposed a distance separation provision of 300m between approved brothels (existing and proposed).

Following exhibition the draft LEP was amended to provide for an increase in the distance separation between brothels from 300m to 500m and to also require brothels to be distanced at least 500m from schools.

However, the then Department of Planning advised on 7 October 2004 that it considered these proposed changes unduly restrictive. Council responded on 17 November 2004 stating that the proposed amendments will only affect the Blacktown Industrial Area, and contended that the new controls will have negligible impact on a brothel's ability to locate in the majority of the City's Industrial areas. After much discussion and delays surrounding the then Department of Planning's concerns regarding the 500m, Council Officers in March 2007 agreed to reduce the distance back to 300m in order to get the LEP moving (noting that Fairfield has 300m distance separation controls). Whilst this LEP pre-dated the LEP Review Panel by several years the matter was referred to the Panel at Section 69 stage (2007). In the interests of being able to progress the amendment to finalisation and gazettal Council in July 2008 agreed to reduce the new 300m controls down to 200m.

Given the past history on brothel locational controls in Blacktown, Council in 2011 requested advice from the Department of Planning and Infrastructure on the likely prospects of a Planning Proposal being supported at the Gateway Determination. The Department responded by indicating that the present Government supports local Councils making local planning decisions however suggest that Council submit maps showing the areas where sex services are able to be developed currently in the LGA and where they will be able to be developed under new distance separation criteria. These maps are at **Attachments 1 and 2**.

PART 1 - Objectives and Intended Outcomes

The objectives of the Planning Proposal are:

- (a) To discourage proliferation of brothels in close proximity to one another in industrial areas.
- (b) To provide an appropriate numerical distance separation between brothels to ensure that inappropriate locations of brothels do not create offence to the community or create adverse social and environmental impacts.
- (c) To ensure that industrial areas continue to primarily accommodate industrial and employment related uses.
- (d) To ensure that industrial areas do not become redundant or underutilised.

The intended outcomes of the Planning Proposal are:

- (a) To increase the distance separation between brothels from 200m to 400m.
- (b) To reduce a possible proliferation for brothels that could lead to the industrial areas becoming "red-light" districts.
- (c) To maintain the amenity and character of the local area.
- (d) To ensure that industrial sites remain a major employment facilitator.
- (e) To prevent potential downturn in trade or investment in the area.

PART 2 - Explanation of Provisions

A “Brothel” is defined as premises used for the purposes of prostitution by one or more prostitutes in the Blacktown Local Environmental Plan (BLEP) 1988.

The existing Clause 42A of BLEP 1988 states:

“42A (1) *Despite any other provision of this plan, development for the purpose of a brothel must not be carried out if the relevant premises are:*
.....
(ab) within a straight line distance of 200 metres of any other premises in relation to which consent has been granted for development for the purpose of a brothel.”

Council has considered providing an appropriate distance separation of 400m between brothels by replacing “200 metres” with “400 metres”. The amended Clause 42A of Blacktown Local Environmental Plan (BLEP) 1988 is recommended to be worded as:

“42A (1) *Despite any other provision of this plan, development for the purpose of a brothel must not be carried out if the relevant premises are:*
.....
(ab) within a straight line distance of 400 metres of any other premises in relation to which consent has been granted for development for the purpose of a brothel.”

PART 3 – Justification

Section A – Need for the Planning Proposal

1. *Is the Planning Proposal a result of any strategic study or report?*

The Planning Proposal is a direct result of a recent application to use certain premises located at the front of an industrial complex at 18 Forge Street, Blacktown as a 24 hour brothel. The industrial unit is located 280m away by straight line distance of an existing brothel at 40 Forge Street and 330m from another one located in Carnegie Place.

Council, at its Ordinary Meeting of 8 June 2011, when considering a report on a Development Application for the proposed brothel, resolved to increase the distance separation provisions relating to brothels in Blacktown Local Environmental Plan (BLEP) 1988, viz:

“Council resolve that a Local Environmental Plan amendment, including a Planning Proposal, be forwarded to the Department of Planning and Infrastructure for a variation to the distance separation for brothels, seeking an increase from 200 metres to 400 metres.”

Council is concerned that the current 200m distance separation is inadequate in preventing a proliferation of brothels in industrial areas in Blacktown LGA, particularly those that fall within URPs as part of Council's work on its comprehensive Standard Instrument LEP. It is considered that a

greater distance separation would assist in reducing a possible proliferation of brothels that could lead to the industrial areas becoming “red-light” districts. It is also considered that cumulative impact such an activity on site may result in a downturn in trade and investment in these areas.

Council consequently has considered providing an appropriate distance separation of 400m between brothels to avoid potential creation of “red-light” districts, to protect community health and welfare, to maintain the amenity of the streetscape, to ensure that industrial sites remain as a major employment facilitator and to ensure that potential cumulative impact of brothels do not create offence to the community or create adverse social and environmental impacts.

The following maps have been submitted with the Planning Proposal at Attachment 1, 2 and 3 showing:

- Existing Land available for brothels in the Blacktown LGA (Attachment 1).
- Proposed Land available for brothels in the Blacktown LGA (Attachment 2).
- A theoretical analysis indicating additional number of brothels that will be able to be developed under the new distance separation of 400m as per Council resolution (Attachment 3).

The theoretical analysis (Attachment 3) suggests that the LEP Amendment would provide opportunity for an additional 35 brothels to be accommodated across the Blacktown LGA and Council considers this number to be sufficient to meet the needs of Blacktown. It is considered that the controls proposed will have a negligible impact on a brothel’s ability to locate in the majority of industrial areas and therefore the new controls are not considered to be too restrictive.

The following table shows that the proposed land available for brothels will remain the same in all other industrial areas except in Blacktown area where 2 approved brothels currently exist.

Industrial Area	Existing Land available for brothels	Proposed Land available for brothels
Seven Hills	59.37ha	59.37ha
Riverstone	37.05ha	37.05ha
Glendenning	57.96ha	57.96ha
Blacktown	48.72ha	40.47ha
Arndell Park	59.2ha	59.2ha
TOTAL	262.3ha	254.05ha

Therefore the amendment would result in a minor reduction in the amount of available land for brothels by only 8.25ha.

2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The proposed LEP amendment is the best means of achieving the objectives or intended outcomes as a 400m distance separation between brothels will:

- (a) maintain the amenity of the streetscape and character of the local area.
- (b) ensure that inappropriate locations of brothels do not create offence to the community or create adverse social and environmental impacts.
- (c) prevent brothels being the primary generator of activity in industrial areas after normal business hours.
- (d) reduce a possible proliferation of brothels that could lead to some of the industrial areas becoming “red-light” districts that could result in downturn in trade or investment in the area.
- (e) assist in facilitating additional business and industrial-related activities.
- (f) ensure that existing employment lands in industrial areas do not become redundant or underutilised.

3. Is there a net community benefit?

A net community benefit has been considered having regard to the following factors:

- (a) The proposed LEP amendment will ensure that Industrial areas, including the renewal areas within these industrial areas, encourage redevelopment and improve the quality of living, are walkable, safe and convenient place to work for the community in the area.
- (b) The proposed LEP amendment will enable to uplift the character of the local area.
- (c) The proposed LEP amendment will allow developing the local economy and providing employment.
- (d) The proposed LEP amendment will ensure that inappropriate locations of brothels do not create offence to the community or create adverse social impacts.
- (e) The proposed LEP amendment will reduce a possible proliferation of brothels that could lead to the industrial areas becoming a “red-light” district which in turn can result in the downturn in trade or investment in the area.
- (f) The proposed LEP amendment will ensure that industrial areas remain a major employment facilitator.

Section B – Relationship to Strategic Planning Framework

4. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

No relevant objectives or actions are contained within the Metropolitan Strategy or draft North West Sub-Regional Strategy in respect to the location of brothels and the like. However, the proposed LEP amendment is consistent with these Strategies in terms of identifying industrial areas as a major employment facilitator where cumulative impact of non-industrial land use, such as brothels may have a negative outcome.

The relationship of this Planning Proposal to strategic planning framework is explained as follows:

(i) draft North West Subregional Strategy

Industrial sites have been identified as employment lands (Category 1) in the draft North West Subregional Strategy. This draft Strategy states that Industrial areas are vital to the health of local and regional economies and should be retained where possible to create additional employment and economic benefits provided that they continue to **primarily accommodate Industrial and related uses**. Such land use should not negatively impact on its surrounding, but rather should contribute towards further economic growth of these areas.

The draft plan is considered to be consistent with the above strategic objectives as the proposed amendment will:

- (a) prevent brothels being the primary generator of activity in the industrial areas after regular business hours.
- (b) assist in facilitating prominently business and industrial-related uses by preventing potential creation of “red-light” districts.
- (c) avoid these industrial lands being redundant or underutilised.
- (d) prevent downturn in trade or investment in the area.

(ii) Sydney Metropolitan Strategy

Metropolitan Strategy has a strong focus on building the economy and providing employment, as well as focusing on centres and urban renewal. Part of some of the Industrial areas fall within the Urban Renewal Precincts (URPs), i.e. Blacktown and Seven Hills. These areas have been identified for improvement by creating conditions that encourage redevelopment and improve the quality of living, are walkable, safe and convenient. The Strategy ensures that renewal areas are attractive and enjoyable places to live and work and reflect local character. It also focuses on developing the local economy and boosting employment.

The draft plan is considered to be consistent with the above strategic objectives as the proposed amendment will:

- (a) maintain amenity of the streetscape and character of local area.
- (b) avoid proliferation of brothels that could create offence to the community or create adverse social and environmental impact.
- (c) prevent potential disturbance and “red-light” districts that could affect neighbourhood businesses and industrial-related activities.
- (d) provide a walkable, safe and convenient place to live and work.

5. Is the Planning Proposal consistent with the Local Council's Community Strategic Plan, or other Strategic Plan?

Blacktown City 2025 provides a strategic framework for Blacktown City Council to operate within over the next 14 years and beyond. It includes strategies to create a smart economy, and a creative friendly and inclusive city. Council focuses on:

- (a) *"targeted growth industries that are likely to have significant economic and employment benefits in the future",*
- (b) *"facilitate the development of sectors of advanced manufacturing, business services, logistics, building and construction", and*
- (c) *"improving quality of life through urban regeneration, urban renewal and local employment development".*

The draft plan is considered to be consistent with the above strategic objectives as the proposed amendment will:

- (a) achieve significant economic and employment benefits by reducing a possible proliferation of brothels that could lead to Industrial areas becoming a "red-light" district.
- (b) improve the quality of life by ensuring that the amenity of the streetscape and character of local areas is maintained.
- (c) ensure that the 2 industrial areas (Blacktown and Seven Hills) that fall within the URP encourage redevelopment and improve the quality of living by preventing brothels in inappropriate locations.
- (d) ensure that industrial areas remain a major employment facilitator and that it does not result in the downturn in trade or investment in the area.
- (e) assist in facilitating additional business and industrial-related uses.
- (f) ensure that existing employment lands in industrial areas do not become redundant or underutilised.

6. Is the Planning Proposal consistent with applicable State Environment Planning Policies?

The Planning Proposal is not inconsistent with State Environmental Planning Policies as these are none of relevance.

7. Is the Planning Proposal consistent with applicable Ministerial Directions?

The following S117 Directions may apply to the Planning Proposal:

DIRECTION	COMMENT
1. Employment and Resources	
1.1 Business and Industrial zones	Consistent
1.2 Rural zones	Not Applicable
1.3 Mining, Petroleum Production and Extractive Industries	Not Applicable
1.4 Oyster Aquaculture	Not Applicable
1.5 Rural Lands	Not Applicable

DIRECTION	COMMENT
2. Environment and Heritage 2.1 Environment Protection Zones 2.2 Coastal Protection 2.3 Heritage Conservation 2.4 Recreation Vehicle Access	Not Applicable Not Applicable Not Applicable Not Applicable
3. Housing, Infrastructure and Urban Development 3.1 Residential Zones 3.2 Caravan Parks and Manufactured Home Estates 3.3 Home Occupations 3.4 Integrating Land Use and Transport 3.5 Development near Licensed Aerodromes	Consistent Not Applicable Not Applicable Not Applicable Not Applicable
4. Hazard and Risk 4.1 Acid Sulphate Soils 4.2 Mine Subsidence and Unstable Land 4.3 Flood Prone Land 4.4 Planning for Bushfire Protection	Not Applicable Not Applicable Not Applicable Not Applicable
5. Regional Planning 5.1 Implementation of Rezoning Strategies 5.2 Sydney Drinking Water Catchments 5.3 Farmland of State and Regional Significance on the NSW Far North Coast 5.4 Commercial and Retail Development along the Pacific Highway, North Coast 5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) 5.6 Second Sydney Airport (Badgerys Creek)	Not Applicable Not Applicable Not Applicable Not Applicable Not Applicable Not Applicable
6. Local Planning Making 6.1 Approval and Referral Requirements 6.2 Reserving Land for Public Purposes 6.3 Site Specific Provisions	Not Applicable Not Applicable Not Applicable
7. Metropolitan Planning 7.1 Implementation of the Metropolitan Strategy	The Planning Proposal is consistent with the NSW Government's Metropolitan Strategy

Section C – Environmental, Social and Economic Impact

8. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

It is highly unlikely that increasing the distance between brothels from 200m to 400m will affect any critical habitat or threaten any species, populations or ecological communities, as brothels (proposed) at 400m distance from each other will be located within the existing industrial areas that are already zoned for urban development.

9. *Are there any other environmental effects as a result of the planning proposal and how are they proposed to be managed?*

It is highly unlikely that the increasing the distance between brothels from 200m to 400m will have any environmental effects. On the contrary, this Planning Proposal will:

- (a) alleviate problems associated with brothels in close proximity to each other.
- (b) discourage brothels from creating offence to the community or creating adverse social and environmental impacts.
- (c) reduce a possible proliferation for brothels that could lead to the industrial areas becoming a “red-light” district.
- (d) maintain the health of local and regional economies to create additional employment and provide economic benefits to the area.

10. *How has the planning proposal adequately addressed any social and economic effects?*

The proposed amendment is consistent with recent and past policy decisions of Council, that reflect broad community concern regarding the location and potential proliferation of brothels.

The Planning Proposal will:

- (a) ensure that industrial areas continue to primarily accommodate industrial and related uses.
- (b) ensure that industrial areas are safe and convenient place to work.
- (c) avoid potential disturbance to neighbourhood businesses and improve character of the local area.
- (d) prevent proliferation of brothels or potential creation of “red-light” districts and as a result ensure that cumulative impact of such activity does not result in the downturn in trade or investment in the area.
- (e) ensure that these industrial sites remain a major employment facilitator.
- (f) encourage redevelopment for industrial areas that are within the URPs and improve the quality of living by preventing brothels in inappropriate locations.

Section D – State and Commonwealth Interests

11. *Is there adequate public infrastructure for the planning proposal?*

Existing public infrastructure within the Industrial areas of Blacktown City are sufficient to accommodate the proposed amendments.

Part 4 - Community Consultation

Community consultation has not yet occurred. Community Consultation requirements will be determined at the review (at Gateway Determination). It is considered that this Planning Proposal has a “*Low Impact*” as the Planning Proposal:

- is consistent with the strategic planning framework
- is not a principal LEP. It amends BLEP 1988.
- does not involve the reclassification of public land.
- will have a negligible impact on a brothel’s ability to locate in the majority of the City’s Industrial areas and therefore is not regarded as too restrictive.
- will result in a minor reduction in the amount of available land for brothels by only 8.25ha due to the presence of 2 approved brothels in Blacktown Industrial area.
- will provide opportunity for 35 brothels to be accommodated across the Blacktown LGA which is sufficient to meet the needs of Blacktown.

It is intended to advertise the Planning Proposal for 14 days pursuant to Section 57 of the Environmental Planning and Assessment Act 1979 in the local newspapers. The exhibition material will be displayed at the Information Centre Counter, Civic Centre, 62 Flushcombe Road, Blacktown. The exhibition material will also be made available on Council's website.

The Gateway Determination will identify any additional consultation required.

ATTACHMENT 1

i Existing Land available for brothels in the Blacktown LGA

ATTACHMENT 2

i Proposed Land available for brothels in the Blacktown LGA

ATTACHMENT 3

- i Theoretical Analysis indicating additional number of brothels that will be able to be developed under the new distance separation of 400m as per Council resolution. (Note that the brothel location shown in these maps are illustrative only and does not reflect an actual brothel site).

