

14 September 2015

The Committee Manager
Select Committee on the Regulation of Brothels
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Sir/Madam

Questions taken on notice at public hearing into the Regulation of Brothels

Thank you for the opportunity to speak on behalf of Hornsby Shire Council on Tuesday, 1 September 2015 in relation to the Parliamentary Inquiry on the Regulation of Brothels.

In response to questions taken on notice at the public hearing on this day, please find Council's responses below.

1. Question from Ms Eleni Petinos MP, Transcript of Evidence, p 64:

I will ask you something that I put to every other council that has come before us. In the last five years – and I do not expect you to have the information on hand, so if you could get back to us, that would be fantastic – how many penalty notices have been issued, how many orders to comply with development consents have been issued and how many brothel closure orders have been issued within your council area?

- a) Hornsby Shire Council has issued a total of 258 penalty infringement notices for varying offences from 2010 to 2015 (as at 14 September 2015).
- b) Between 2010 and 2015 (as at 14 September 2015), Hornsby Shire Council's Environmental Compliance team has issued:
- 96 Notices of Council's Intention to Issue Order No. 15 (comply with development consent) under provisions of Section 121B of the Environmental Planning and Assessment Act, 1979;
 - 64 Orders (No. 15 - comply with development consent) pursuant to Section 121B of the Environmental Planning and Assessment Act, 1979;
 - 60 Emergency Orders (No. 15 – comply with development consent) pursuant to Section 121B of the Environmental Planning and Assessment Act, 1979.
- c) Three Brothel Closure Orders have been issued between 2010 and 2015 (as at 14 September 2015).

2. Question from Mr Alex Greenwich MP (not included in transcript of evidence):

Mr Greenwich noted that some local councils hire private investigators to receive sexual services from workers in massage parlours to prove that those massage parlours are providing sexual services without planning approval. Mr Greenwich asked that questions on notice to Hornsby Shire Council, following public hearings on 1 September 2015, include a question about how circumstantial evidence provisions in legislation could be improved to obviate the need for private investigator evidence of this nature.

To obviate the need for Councils to hire a private investigator to prove that a massage parlour is providing sexual services, changes are required to NSW legislation in terms of amending the definition of 'brothel' within the Environmental Planning and Assessment Act 1979 to mirror that contained within the Restricted Premises Act 1943.

Currently, the anomalies between these pieces of legislation enable a massage parlour to have one sex worker providing sexual services to customers; with the premises not classified as a 'brothel' (i.e. two or more sex workers currently define a premise as a brothel). Accordingly, if the definition of 'brothel' was to be amended to one (or more) workers at a massage parlour providing sex services, circumstantial evidence in terms of newspaper advertisements, online customer blogs and forums, and customer witness statements in relation to being propositioned could be used as evidence, as any suggestion of a premises providing sex services would be sufficient for Council to commence prosecution proceedings.

Such changes would therefore negate the need for Councils to take the drastic action of hiring private investigators to obtain the evidence currently required to meet the burden of proof in the Local Court.

I trust this information is of assistance. Should you require any further information, please do not hesitate to contact the undersigned on [REDACTED].

Yours faithfully

[REDACTED]

SIMON EVANS
Manager, Compliance & Certification
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Hornsby Shire Council

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