

From: [Stuart James \(he/him\)](#) on behalf of [Stuart James \(he/him\) <Stuart.James@monash.vic.gov.au>](#)
To: Irrelevant
Cc: [Councillors](#); [Councillor Support](#)
Subject: RE: Massage Parlours
Date: Wednesday, 21 September 2022 11:25:55 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.jpg](#)

Dear Irrelevant

Thank-you for your further email to myself and other Councillors regarding your concerns with massage parlours throughout the City of Monash.

In response to your direct questions, I can advise:

1. Given that planning laws regulate land use can you advise on whether Council could pass planning rule changes to ban certain businesses or restrict their operations?

Planning Schemes and what is allowed within certain zones, are set by the State Government. Even where a Council may wish to change what can happen in a zone, a Council does not have the ability to modify the standard zone provisions which are common to all Planning Schemes in the State to allow or restrict land use and development. Where a planning permit is required, Council can impose restrictions. In the case of massage parlours, as no planning permit requirement is triggered, no operational restrictions can be imposed.

Planning works on the assumption that landowners do the right thing, whether there is a permit granted as well as when a permit is not required. Where there is a planning breach, there are enforcement mechanisms in place to deal with this. With illegal activities, it is about enforcement as opposed to restricting, understanding that not all business owners do the wrong thing.

2. To your point on future changes to land use planning, are you suggesting that in future it may be easier for brothels to operate in Monash, possibly in the same way as massage parlours?

Firstly, I must clarify that I do not agree with a broad generalisation that all massage centres provide illegal services. Understanding that there are operators that do the wrong thing, equally there are business operators that do the right thing. Accordingly, I do not think that the changes being introduced by the State are comparable to massage centres, but perhaps best compared to where legitimate brothels may operate.

The State wide changes to decriminalise sex work, includes changes to all Planning Schemes across Victoria. These changes, operational from 1 December 2023 introduces a new defined land use term 'sex services premises', to replace the land use term 'brothel'. The changes also propose to delete the general terms 'sex work' and 'sexual services' and include the new term of 'sex services premises' within the definition of a 'shop'. Within a Commercial 1 Zone, a planning permit is not required for the use of a shop. Therefore, a sex work premises may be able to operate within a Commercial 1 Zone the same way as a shop. For any further information on these State wide changes, please reach out to DELWP on ph: 136 186.

Turning to your point where a massage centre may provide illegal sexual services currently, with the changes in the regulations they will be able to do so legitimately and without restriction. This also applies to home based businesses in Residential areas that may choose to provide sexual services, provided they meet the requirements that would allow them.

3. Could you clarify how it is possible for Council to ban smoking in public places/areas but not

be able to regulate Massage Parlours in the same way?

Councils utilise local laws to respond to issues and community needs within a local context. They typically deal with protection of local amenity as well as regulating activities on council-controlled land and roads. However, a local law is made by Council. These Local Laws cannot duplicate or contradict a federal or state law. Smoking is controlled in certain places under the provisions of the Tobacco Act (State Law) however it was open for Council to introduce smoking controls that were not covered by the Act. For example, the Smoke-free Areas Local Law controls smoking on council controlled land, but not in areas where the Tobacco Act comes in to play. Accordingly, a local law does not control land use planning and Council cannot introduce a local law that would contradict the main pieces of State Legislation being the Planning and Environment Act and the relevant Planning Scheme.

4. In term of land use planning, is it possible to unban or decriminalise certain activities through Council, for example smoking laws?

No it is not. The reasoning for this has been provided in the answers to the questions above.

5. Has Council undertaken any health inspections of these businesses?

No. Such inspections are the responsibility of the Department of Health.

6. Given the size of Council, and its expertise, how it is possible that you cannot definitely state the total number of Massage Parlours?

Massage parlours do not require a planning permit or registration under current legislation. These approval system processes are how we understand what different land uses exist. From a Council perspective there has never been a need to understand the number in itself, as our role is one where an issue with a land use may arise or a permit may be required as opposed to whether it exists or not.

7. Is there a maximum number of Massage Parlours that you would allow to operate in the City of Monash?

No there is not. As with most land uses and developments there are no maximums that are stipulated or are able to be stipulated within Planning Schemes. The market and competition normally does an adequate job of regulating types and number of land uses, which are demand driven and where there is no demand they do not survive.

8. From a gender equality perspective, do these businesses discriminate by not employing male massage "therapists"?

This is a matter that is beyond Council's area of control and it would not be appropriate that we comment on this. The Workplace Gender Equity Agency governs gender equity in the workplace. For more information, please visit <https://www.wgea.gov.au/about/workplace-gender-equality>

For any further queries please do not hesitate to contact **Irrelevant**

Regards,

Mayor Stuart James
City of Monash
Councillor for Oakleigh Ward

Mob: 0413 184 250



From: Irrelevant >
Sent: Sunday, 18 September 2022 3:44 PM
To: Geoff Lake <Geoff.Lake@monash.vic.gov.au>; Rebecca Paterson (she/her) <Rebecca.Paterson@monash.vic.gov.au>; Dr Josh Fergeus <Josh.Fergeus@monash.vic.gov.au>; Stuart James (he/him) <Stuart.James@monash.vic.gov.au>; Brian Little <Brian.Little@monash.vic.gov.au>; Theo Zographos <Theo.Zographos@monash.vic.gov.au>; Paul Klisaris (he/him) <paul.klisaris@monash.vic.gov.au>; Anjalee de Silva <Anjalee.deSilva@monash.vic.gov.au>; Nicky Luo <Nicky.Luo@monash.vic.gov.au>; Shane McCluskey <Shane.McCluskey@monash.vic.gov.au>; Tina Samardzija <Tina.Samardzija@monash.vic.gov.au>; Mail @ Monash <Mail.Monash@monash.vic.gov.au>
Subject: RE: Massage Parlours

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To all Councillors, City of Monash

C/C: Irrelevant

Greetings,

Thank you for replying to my email dated 14th of August in relation to Massage Parlours. However, I would like to have some answers to the following points:

1. Given that planning laws regulate land use can you advise on whether Council could pass planning rule changes to ban certain businesses or restrict their operations?
2. To your point on future changes to land use planning, are you suggesting that in future it may be easier for brothels to operate in Monash, possibly in the same way as massage parlours?
3. Could you clarify how it is possible for Council to ban smoking in public places/areas but not be able to regulate Massage Parlours in the same way?
4. In term of land use planning, is it possible to unban or decriminalise certain activities through Council, for example smoking laws?
5. Has Council undertaken any health inspections of these businesses?
6. Given the size of Council, and its expertise, how it is possible that you cannot definitely state the total number of Massage Parlours?
7. Is there a maximum number of Massage Parlours that you would allow to operate in the City of Monash?
8. From a gender equality perspective, do these businesses discriminate by not employing male massage "therapists"?

Regards