



Legislative Assembly

Community Protection (Illegal Brothels) Bill Hansard

Extract

06/09/2001

Second Reading

Mr BROGDEN (Pittwater) [10.21 a.m.]: I move:

That this bill be now read a second time.

The Coalition introduced the Community Protection (Illegal Brothels) Bill because of enormous community concern about the explosion of illegal brothels in New South Wales. Since 1995, when the Carr Government decriminalised brothels in New South Wales, there has been an explosion in the number of illegal brothels operating in Sydney and in regional and rural New South Wales. Honourable members will recall that the Carr Government, upon election in 1995, decriminalised brothels by taking them out of the Disorderly Houses Act and placing them into the Environmental Planning and Assessment Act. The general view was that brothels should be treated not as a law and order issue but as a planning issue. Obviously that flowed from years of police corruption and, in particular, as a result of the operation of illegal brothels and brothels in general.

The Government's approach, which was supported at the time by the Opposition, will effectively transfer responsibility for the approval of brothels as a land-use purpose from the State Government to local government in New South Wales. That approach differs considerably from the approach taken by other States in Australia. We do not licence brothels in New South Wales; we do not licence individuals to run brothels in New South Wales; and we do not restrict individuals to running only one brothel, which is the approach taken by the Victorian Government. The Government does not seek to inspect them from a health and safety perspective. It is best to describe this process as the decriminalisation or, more appropriately, the deregulation of the sex industry in New South Wales.

In the 6½ years since brothels were decriminalised in New South Wales there has been an explosion in the operation of illegal brothels. We need go no further than to look at the back pages of our local papers to see the increased number of sex workers offering their services on a daily basis. Probably one of the best examples of this is in the local paper of the honourable member for Vaucluse. The *Wentworth Courier* and most other local papers devote pages and pages to the advertising of sex workers. Some metropolitan newspapers also advertise in their back pages that these services are available. It is easy to establish an illegal brothel because it is hard to close one down.

Local government in New South Wales has been forced to spend much time and money on closing down illegal brothels. It is not unfamiliar for a local council, having identified that a premises is operating as an illegal brothel, to spend thousands—if not tens of thousands—of ratepayers' dollars, through legal and other fees, to close it down through the court process. The Opposition has been made aware that some councils—such as Parramatta council in Sydney—take more than 12 to 18 months through the court system to close down an illegal brothel. That process, which can cost tens of thousands of dollars, can involve a council employing a private detective to pay for sex on the premises, sit as a witness in court, and attest to the fact that the premises is operating as an illegal brothel.

Councils are forced to spend ratepayers' dollars to determine whether a premises is operating as an illegal brothel and to close it down. It has simply gone too far. This bill seeks to significantly amend the Environmental Planning and Assessment Act to give local councils new and clear powers to close down illegal brothels within 48 hours of those premises being identified as operating as illegal brothels. By giving council officers the power to close down such premises once they have determined that it is operating as an illegal brothel, premises can be closed, not after a 12-month or 18-month period or after council has spent \$20,000, but after 48 hours and a minimum of expense.

Currently a council must prove that a premises is operating as an illegal brothel. This bill seeks to reverse that onus of proof. Once a premises has been identified as an illegal brothel a property owner must prove that it is not operating as an illegal brothel. Owners of these premises will have one of a few options. First, they could indicate to council that they already have development approval to operate as an illegal brothel. Second, they could indicate to council officers that they are not operating as an illegal brothel but that they provide other services in an attempt to satisfy council officers. Third, they could simply close down or seek an application to operate as a brothel under council rules and regulations. A failure to do that will give council or law enforcement officers the power to walk into the premises, lock up the property and secure it.

This bill will give back the streets to the community. Hundreds of illegal brothels across metropolitan Sydney are operating in suburban areas. One of the better examples in New South Wales is Harris Park. In recent years residents became concerned about the operation of eight to 10 illegal brothels in one street alone in the middle of a residential area—an area not zoned for any business purpose but simply for residential use. The introduction of illegal

brothels into residential areas—and brothels operate long into the night and into the early hours of the morning—has changed the amenity of those streets. The Opposition wants to give councils the power to close down brothels quickly, to return that amenity to the community, and to expel illegal brothels and their customers and clients.

The Opposition calls on the Government to accept this bill. We call on the Government to make minor amendments to the legislation it introduced 6½ years ago—legislation which was supported by the Opposition—to regulate illegal brothels. The Opposition is not seeking in any sense to try to close down legal and operating brothels. Brothels that have sought and received approval from their local councils can continue to operate, as they are legitimate businesses. Whether we like it or not, brothels are now legal in this State. The Opposition wants to ensure that the Government has the power to quickly close down illegal brothels. That power does not exist at present. At present operators lodge a development application which is assessed and voted on by council officers at a council meeting. Why go through such a hassle when it is easy to open premises and to operate it illegally in the knowledge that it will be hard to close down?

Many councils simply do not have \$10,000, \$20,000 or \$30,000 to go through such a process; nor do they want to spend 12 or 18 months in court, at ratepayers' expense, to close down illegal brothels. Sadly, many councils turn a blind eye to this problem because they know what costs are involved. The Opposition, through this legislation, simply wants to give back the streets to communities and give back homes to families. Illegal brothels in New South Wales that are operating within sight of schools, churches and family homes should be closed down. The Opposition wants to give councils the power to close them down.

Control over the appropriate location of brothels has been an intractable problem for local governments across New South Wales. Many councils have developed planning policies in consultation with the community to establish guidelines for the appropriate location of brothels, only to have these policies disregarded by the Land and Environment Court in appeals brought by brothel operators. In other cases councils have been powerless to close down brothels operating without development consent. The Disorderly Houses Act 1995 made it legal to operate a brothel in New South Wales provided that development consent had first been obtained from local council.

The Act made the regulation of brothels a planning issue rather than a moral or policing issue, which is an appropriate attitude for a government to take. Although the decision to operate, patronise, support or close brothels is a matter of personal morality and choice, clearly the impact of brothels on the wider community is a planning issue and one worthy of consideration by this House. For this reason the Opposition supported the passage of the legislation in 1995. However, it is now clear that the legislation has failed to promote better planning outcomes in New South Wales.