



# **Legislative Assembly**

## **Local Communities (Brothels-Flexible Zoning) Bill Hansard**

### **Extract**

**15/11/2001**

#### **Second Reading**

**Mr TORBAY** (Northern Tablelands) [12.28 p.m.]: I move:

That this bill be now read a second time.

I am pleased to have the opportunity to introduce the bill. The bill has been drafted following considerable work by the former member for Tamworth, Mr Tony Windsor, who resigned as a member of this House and was subsequently elected to represent the Federal seat of New England. Of course, that denied him the opportunity to introduce the bill. I have undertaken responsibility for carriage of the bill. I pay credit to the former member for Tamworth for its drafting. The legislation has come about because of concerns that have been expressed in local communities about brothels generally, and about the lack of opportunity for communities to have their views heard. I will refer to some of the clauses in detail but, generally speaking, the bill merely seeks to allow councils the flexibility to establish brothel-free zones in local government areas.

In short, that is the purpose of the bill. There has been some debate, even this week, about brothels and the legislation that allows them to function, and also about initiation of corrective action when illegal brothels have been established. I commend the honourable member for Pittwater, the shadow Minister, for having introduced the Community Protection (Illegal Brothels) Bill, which I believe will complement this bill if both are passed by this House. I refer honourable members to the overview of the bill, which states that the object of the bill is to allow councils to establish brothel-free zones in local government areas. It further states that an occupier of premises in a brothel-free zone who uses the premises or allows the premises to be used for the purpose of a brothel will be guilty of an offence.

**Pursuant to resolution business interrupted.**



# Legislative Assembly

## Local Communities (Brothels-Flexible Zoning) Bill Hansard

### Extract

14/03/2002

#### Second Reading

Debate resumed from 15 November 2001.

**Mr TORBAY** (Northern Tablelands) [10.10 a.m.]: When I introduced the bill I gave a brief background to it. Various communities expressed numerous concerns about the lack of control of brothels and the lack of flexibility of local government authorities to implement brothel-free zones. Local councils asked me, as the representative of local communities: If it is good enough for local councils to make decisions about what is appropriate in zoning and development, why is it not appropriate for councils to determine whether brothels should be allowed in their areas?

Local councils should have, on behalf of the communities they are elected to represent, the power to introduce a brothel-free zone. This bill is designed to give councils that power. I look forward to hearing first-hand the debate on this bill so that I will know the views of the Government and Opposition. I often hear in this Chamber a whole range of members of various political persuasions expressing their views on the important role of local government. They speak of the importance of the role of the arm of government that is closest to the community and its ability to take on board community views and provide leadership to ensure that the local community's concerns are heard. Current legislation does not allow that process to occur.

I will go through some of the clauses of the bill, which in essence allow local government, without fear of litigation, to introduce a brothel-free zone. I think communities will be happy with that because it will enable councils to act on their behalf without the councils being in fear of constant litigation. The current process that must be followed is incredibly flawed in every sense of the word. Councils are becoming bogged down in litigation and police who are called upon to act in these matters find that their powers are limited by various pieces of legislation.

Further, the bill seeks to amend the Planning Act to ensure that councils that take action to declare a brothel-free zone are not subject to litigation. Clause 4 enables a council to prepare a proposal for the establishment of a brothel-free zone on either its own motion or on the application of a specified person or persons. The brothel-free zone may comprise the whole or any part of the area of the council. The council has the authority to determine, on behalf of its community, what it believes the community is telling the council. That is a fundamental principle of the democratic process.

Clause 5 requires a council to give public notice of the proposal to establish a brothel-free zone and to consider any representations and submissions made in relation to the proposal. Community feedback, I would have thought, is very important, but having authority to act on that feedback is equally important, otherwise we would have consultation merely for the sake of consultation without powers to implement proposals. That lack of power is tying councils' hands behind their backs. Clause 6 allows a council to adopt a proposal to establish a brothel-free zone after complying with the procedure set out in clauses 4 and 5. The council is required to give public notice of the declaration of a brothel-free zone. Clause 7 provides that a brothel-free zone operates from the date specified by the council, but no earlier than 30 days after the date that public notice is given of the establishment of a brothel-free zone.

Clause 8 allows a council to cancel the operation of a brothel-free zone. To put it simply, the council will have authority to react to the concerns, feedback and contributions of local communities. Clause 9 requires a council to undertake public consultation before changing the boundaries of a brothel-free zone. Again, the community obviously will be heavily involved in any proposed amendments regarding a brothel-free zone. Clause 10 makes it an offence for an occupier of premises in a brothel-free zone to use the premises or allow the premises to be used for the purpose of a brothel. The penalty provided for that offence is currently 100 penalty units, the value of which will change over time.

Clause 11 is very important. It allows a police officer to obtain a search warrant in respect of premises in a brothel-free zone if he or she has reasonable grounds for believing that those premises are being used for the purposes of a brothel. Under current law people can advertise brothels. I have had considerable feedback from the community about the present system. For instance, if a copy of a newspaper advertisement is given to police as the basis of a complaint, the local council must give notice to the owner of the premises that the council intends to do an inspection of those premises. Guess what? Councils do not find anything illegal happening at those premises. Those sorts of silly processes are in place today. People seem to be able to operate these facilities but appropriate mechanisms are not in place to protect the community.

The honourable member for Pittwater has introduced a bill in respect of illegal brothels. I place on record my

support for that bill, because I believe the process for dealing with illegal brothels also bogs down councils and communities in the costly processes of litigation. As a former mayor of Armidale, I recall being approached by community members complaining about an illegal brothel. My powers at that time were very limited. Little could be done because of the planning laws in operation in New South Wales, which are still in place, although the Government has moved to make certain amendments to existing legislation. Those amendments are welcome, but they do not go far enough.

In response to the representations from the community I instructed council officers to investigate the matter. Those officers had to follow certain procedures, including giving notice that they were coming to inspect the premises. Of course, they found nothing untoward. As mayor, I then had to instruct council officers to hire a private detective to undertake research. Consequently, I received a detailed report. It was so detailed that it was impossible for me to table it at the council. Nonetheless, the report proved to be effective in assisting to close down that illegal facility. That action, of course, was consistent with the community's views.

At what cost did that occur? I assure honourable members that the local media was interested in where council got the money to employ a private detective to undertake that type of research! All of a sudden it became an issue, not about protection of the community but about how much it had cost the community to undertake the action. Why, in taking the action on behalf of the community, did council put these substantial financial resources into doing so? We then had to litigate against the person who operated the brothel. That took a substantial period of time and even more money. We went through a whole process that cost substantial sums of money to protect the community in circumstances where a brothel was operating illegally.

That is unsatisfactory and, I believe, unnecessary. This bill will take the appropriate corrective action and allow local councils to determine these issues on behalf of their communities. Indeed, if the bill introduced by the shadow Minister, the honourable member for Pittwater, were also passed, it would be an enormous step forward by the New South Wales Parliament. I am disappointed that there has not been more interaction by members of this House in respect of this bill, but the interaction I have seen on behalf of communities throughout New South Wales has been very substantial. It has been the subject of numerous petitions to this Parliament, not only by me but also by the former member for Tamworth. I know that the community in that area has been very active in this regard.

I hope that the new member for Tamworth will also take up this matter on behalf of his local community, because the communities of Tamworth and the Northern Tablelands have been very active, given the local issues that have necessitated the introduction of this bill. I want to place on record my thanks to the former member for Tamworth, Tony Windsor—now the Federal member for New England—who originally had carriage of this bill. The communities in the Northern Tablelands had contributed input and when he departed this place to successfully contest the seat of New England I was able to undertake carriage of this bill on his behalf. It is important that Government and Opposition members provide information on their views to the communities that have given feedback on this process. I will be pleased to receive any amendments or suggestions. I am open to constructive feedback and I am hopeful that the process will deliver something that reflects the wishes of the community.

My feedback is that communities would like local government to have the authority, which it has in almost every other case, to determine these outcomes on behalf of the community. Communities would like councils to have authority to implement a brothel-free zone within and around a local government area, consistent with the wishes of the community and without having to face costly setbacks and lengthy litigation, which obviously comes at a cost to the local community. I commend the bill to the House