



Community Protection (Closure of Illegal Brothels) Bill.

Second Reading

Ms PETA SEATON (Southern Highlands) [10.01 a.m.]: I move:

That this bill be now read a second time.

I introduce this bill on behalf of the Opposition. The bill continues to push the case for much-needed reform and gives the Carr Government a chance to get it right this time by voting for it. The Government will probably say we do not need to change and that all is well. The Government is wrong. On 27 October the *Daily Telegraph* outlined a very difficult issue experienced by residents in Baulkham Hills, where an illegal brothel had been set up in medium-density development, next to residences. The *Daily Telegraph* reported:

Residents and Baulkham Hills Shire Council are fighting a losing battle against shady operators who rent units and homes in false names and set up "massage parlours", pull-up stumps once the complaints mount to move elsewhere ...

Neighbours have complained to police, Baulkham Hills Council, their local MPs, the building's body corporate and the unit owner, but without success.

The council recently took the lessees of the flat to the Residential Tribunal in an effort to evict them.

The case was thrown out and as a last resort the matter will now head to the Land and Environment Court.

The article outlined similar problems experienced in a number of Sydney council areas, including Newtown and Marrickville. On the North Shore, Willoughby City Council was forced to hire a private investigator to obtain evidence on an illegal parlour. Those are examples and evidence of why the Government must support this bill. The Government has made all sorts of excuses in the past and claimed that things were fixed, that everything is well, but clearly it is not. On that same day the *Daily Telegraph* editorial stated:

The legalisation of brothels in 1995 was intended to clean up the sex industry, allowing it to be regulated by local councils and the State Government ...

Local councils have tried to crack down on these illegal operations, but once the heat becomes too much, the owners simply pack up and move on to the next suburb.

Referring to Baulkham Hills the editorial continued:

[Residents] moved to Baulkham Hills in an effort to provide a safe and peaceful environment for their children.

Instead they were bombarded day and night with male visitors, who loiter at the entrance to their unit, ring their buzzer and generally make life unbearable.

This is totally unacceptable.

The Coalition agrees; this is totally unacceptable and that is why we have introduced this bill today in an effort to do what councils have wanted the Government to do for some time. Councils want those loopholes closed and they want to be able to close down illegal brothels speedily, efficiently and at minimum cost to ratepayers. As a result, and with the steady flow of concerns flowing in from councils, local residents and police, it is urgent that we try, again, to fix this problem. I ask the Government to support us on this initiative, and help make a difference. Supporting this bill would mean that families will get their neighbourhoods back, mothers will be able to let their children play outside in places where now they are afraid to let their children see the trade that can be going on next door in a suburban block of flats.

The bill will restore to owners of strata title properties some control over what goes on in their buildings, when certain people try to operate an illegal brothel out of a flat. I acknowledge the support for this bill by the Institute of Strata Titles Management; it knows the bill will make a difference to the people it represents. The bill will restore control to councils over what goes on in their area, without costing resident ratepayers an arm and a leg in legal fees while their council is forced into months of litigation under present laws to prove that a brothel is illegal and not an escort agency. The bill will help protect underage girls and young men who can easily fall prey to unscrupulous illegal brothel operators who offer a young homeless person a roof over their head, at huge human cost. I am sure that the honourable member for Vaucluse would agree that this bill would give police the support they are seeking.

Mr Peter Debnam: Much-needed support.

Ms PETA SEATON: Absolutely. The police are very keen to see reform in this area. The Leader of the Opposition introduced a very similar bill in the last session of Parliament, and argued strongly, especially on behalf of councils, for the adoption of the bill. I commend him for that. He consulted widely with councils, received enormous support and encouragement, and proceeded with the bill. What did the Labor Party do? It voted it down. Well, we are going to try again and will not be deterred. The underlying principles are to recognise the danger to public health and safety that is caused by the operation of illegal brothels in inappropriate locations within the community. Accordingly, the objects of the bill are:

(a) to protect the community from the operation of illegal brothels,

(b) to encourage the restriction and regulation of brothels under instruments and policies made or adopted by local councils, and

(c) to facilitate the prompt closure of illegal brothels by local councils.

Schedule 1 to the bill sets out some of the main objects of the bill and explains that presently under section 121B of the Environmental Planning and Assessment Act 1979, the principal Act, local councils may give a person an order to do or refrain from doing specified things in certain circumstances. Schedule 1 [3] amends the table to section 121B of the Act to specifically provide for the giving of an order under that section to cease using premises for the purposes of an illegal brothel, that is, in certain circumstances where the use of the premises as a brothel is prohibited under an environmental planning instrument or where development consent is required but has not been obtained. The order may be given to the owner of the premises or the person by whom the premises are being used as a brothel.

Schedule 1 [1] will change the term "brothel" in the principal Act to the same meaning as in the Restricted Premises Act 1943, namely, premises habitually used for the purposes of prostitution, or that have been used for that purpose and are likely to be used again for that purpose. Schedule 1 [2] excludes development for the purposes of a brothel from the operation of the State environmental planning policy [SEPP] 1, Development Standards. This is a very important provision, because in the past it has been very difficult for councils to defend themselves against arguments by proponents that they should be given consent for a brothel under SEPP 1. This makes it clear that SEPP1 cannot be used for that purpose. The additional provision inserted by schedule 1 [4] entrenches the underlying principles and objects of the proposed amendments in the principal Act. Schedule 1 [5] inserts a provision that certain requirements under the principal Act relating to the giving of orders under section 121B will not apply to an order to cease using premises as an illegal brothel.

For example, it will not be necessary for a council to give advance notice of the proposed order or to allow representations to be made concerning the proposed order. That will give councils the essential element of surprise, which is essential in catching these fly-by-night illegal brothel operators. Schedule 1 [6] inserts a provision that if a council gives a person an order to cease using premises as an illegal brothel, then the order must require compliance with its terms within 48 hours. At the moment it can take a council up to two years to successfully close an illegal brothel. This will give councils control and the ability to close a brothel within 48 hours.

If a council is satisfied that an order referred to above is not being complied with, the change made by schedule 1 [7] will authorise the council to take action to prevent persons from entering the premises to which the order relates. A council will be able to recover any reasonable costs that it incurs in taking that action. Also, a council will be able to recover from the person required to comply with the order certain other costs incurred by that council in making the order. This is another important provision because if it is necessary for a council to move in and change the locks, board up an entrance or do some such work, or to undertake other investigation or security related assistance, it is important that ratepayers be protected from those costs. They are not reasonable costs for ratepayers to have to bear in the process of following up and enforcing compliance on illegal brothel operators.

The regulation of brothels has had an interesting history, and the operators of legal brothels are not the subject of this bill. There is a clear role for the legal and regulated sex worker industry, and it is to be commended for the reforms it has made which ensure greater health and safety for workers in the industry in appropriately situated and properly regulated premises. This bill seeks to deal with illegal brothels. I also acknowledge that this bill addresses only one aspect of the illegal sex industry, which is a burden to many business owners who fear the effects of unregulated street sex worker activity and the lack of control by councils over where sex work activities can take place.

The Disorderly Houses Act 1995 made it legal to operate a brothel in New South Wales, provided development consent had first been obtained from the local council. This moved planning control from the State Government to councils, and the Coalition supported this approach in 1995. However, a number of deficiencies were evident, including many difficulties for councils in telling the difference between what was an escort agency and what was a brothel. There are difficulties also in forcing council inspectors or hired private detectives to virtually play the role of a client in order to prove the real nature of a brothel. There were costs to ratepayers in terms of thousands of dollars spent on lengthy court processes in the Land and Environment Court to get an illegal brothel closed down.

All this effectively forces some councils to turn a blind eye to the problem, because the process of closing down an illegal brothel is simply too difficult and costly, and councils simply cannot afford the court case or resource the compliance functions. Despite having development control plans in place, which would avoid school, church and

residential proximity, councils still cannot control brothel locations when operators defy the rules. Under the present system, applicants can use SEPP1 to avoid council's planning decisions, with more court costs to ratepayers. There are dangers, too, and exploitation of sex workers under the current system. For example, in the Port Kembla area we have all heard recently of allegations about the activities involving underage prostitutes. Apparently there are no illegal brothels in the Wollongong council area and a man is facing charges for hiring underage girls at the Southern Belles brothel. Many women have been working in the street and living in cardboard shanties in alleyways.

The Leader of the Opposition recognised all of these problems two years ago and drafted a new bill to address these concerns. He introduced the Community Protection (Illegal Brothels) Bill 2001 as a private member's bill. This bill sought to amend SEPP1 and the Environmental Planning and Assessment Act. He gave notice in June 2001, introduced the bill in September 2001 and second read it. The bill lapsed on 20 February 2002 and was restored to the same stage on 12 March 2002. At the time the Leader of the Opposition said:

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.

But on 20 June 2002 the Government voted down that bill. So in the face of new evidence of the continuing problem in many local government areas in Sydney, and the Government's arrogant indifference to the problems, I have introduced this bill today. Areas such as Baulkham Hills, Port Kembla, Willoughby and Newtown are still struggling with Labor's lazy, arrogant approach, because Labor simply will not make the necessary tough decisions to give powers to councils to control their areas. This bill will deliver a clearer, cheaper, fairer and safer planning system. It will enable councils to shut down suspected brothels within 48 hours. It will reverse the onus of proof so that brothel operators must prove they are legal, rather than councils having to prove the opposite.

The bill will halt the use of SEPP1 for brothel applications. It will provide local councils with powers to issue an order specifically directed against illegal brothels, to circumvent the normal lengthy process by which an order is made and to ensure swift compliance with an order against an illegal brothel. When council has issued an order for the closure of an illegal brothel and the order is ignored the council can act with any necessary assistance from the police to prevent entry to the premises the subject of the order. The bill enables councils to recover costs incurred in making an order to close a brothel, and strengthens legal brothels and sex workers rights and protection. That is important.

If we are to uphold legal brothels and sex workers who work legally in the system and who enjoy all of the improvements that have been made to occupational health and safety by these reforms, it is important that we ensure that we close down and deal properly with illegal brothels. These are commonsense, practical measures to give councils the power to act quickly, decisively, fairly and in the interests of their residents and ratepayers. The Carr Government was clearly embarrassed by the Leader of the Opposition's initiative and, rather than do the sensible thing and support our bill, it scrambled to cobble together something that would give the impression that it was doing something about this problem.

In 2002 the Government introduced the Crimes Amendment (Sexual Servitude) Bill, which the Coalition supported. In fact, it was introduced across all States and deserved bipartisan support. However, it was not aimed at fixing problems that I have described today, although it targeted necessarily an appalling practice about which there was no disagreement in this place. In 2002 the Carr Government also introduced the Disorderly Houses Amendment (Brothels) Bill which brought in tighter rules of evidence to help councils close down illegal brothels but still require the same lengthy court processes, including the Land and Environment Court processes. The Government had the chance to fix the system but did not do it properly, because under the Government's legislation councils must still go through months of legal action and detective work to do what should be done in only a couple of days.

The Government also did what all lazy governments do when they run out of ideas: it announced the establishment of a Brothels Planning Advisory Panel in 2002, chaired by our old friend Vic Smith as an independent chair. The Coalition's bill will help councils to quickly and effectively shut down illegal brothels in neighbourhoods that are increasingly being abused by shonky fly-by-night illegal brothel operators who take advantage of the Carr Government's slack laws on illegal brothels. This legislation will give councils the power to shut down illegal brothels within 48 hours. Councils and communities should have the right to control what happens in their local areas. No-one should have to be fearful in their neighbourhoods and keep their children indoors because an illegal brothel is flourishing unchecked in a residential area.

Under the Government's current laws councils are forced to spend thousands of dollars of ratepayers' money on lengthy Land and Environment Court actions to close an illegal brothel. That must stop. There are more disturbing aspects to this whole murky business of illegal brothels—something that I would have thought every Labor member would have wanted to stop. I refer to the alarming events that have occurred in recent times in Port Kembla. On 20 November the family and friends of Ms Maria Scott gathered at her funeral. Ms Maria Scott was a sex worker who apparently was murdered. She was the third woman who was apparently murdered in similar circumstances in the region in recent times. A local woman who spoke at her funeral said, "You have to show compassion. This is somebody's daughter or somebody's sister." She went on to say, "Maria never caused problems on this street. It was always, 'How are you going, mate?' Nobody deserves be killed. I had a lot of time for Maria."

I tried in this Parliament to draw attention to the plight of these women but I was met with an orchestrated attempt at a cover-up by the honourable member for Kiama and other Labor members. I hope that, following these tragic events in

Port Kembla, every Illawarra Labor member will vote with Opposition members on this bill as a first step towards cleaning up this scourge of illegal brothels and helping women in these situations into other healthy and positive opportunities in life. A cardboard shanty in an alley is not good enough. Let us go back a few months to see where this issue began, as that is the time that we saw the first signs of a cover up of the problem. *Illawarra Mercury* investigative reporter Jenny Dennis began to follow up community concerns about local street workers and suspicions of illegal brothels operating in Wentworth Street.

The work of Jenny Dennis on this was so good, accurate and courageous that last week she was given the Walkley award. I commend Jenny Dennis on the steps that she took to highlight this filthy trade and to expose the grubs that ply it. I commend her for getting to the truth of the situation, not because it was salacious but because at its centre was the welfare of two young, under-age girls who were allegedly working in an illegal brothel. It concerned issues to do with the question of the appropriateness of individuals, many of whom were members of the Labor party at the time, holding office in the local chamber of commerce when one had been the subject of allegations to do with the running of an illegal brothel. And another individual, Mr Martin Pitt, the secretary, purportedly had known at the time that he had encouraged Mr Neville Hilton to stand for the position of junior vice-president that he had been the subject of such allegations.

Mr Hilton, a former Shellharbour deputy mayor and a former union boss, has been a long-term president and office bearer in the Australian Labor Party, including holding the role of president of the Throsby Federal Electorate Council and the Albion Park branch, which I understand is the electorate of the honourable member for Kiama. He is part-owner of the Southern Belles brothel in Wentworth Street, Port Kembla. Mr Hilton was charged on 5 September 2003 with two counts of an owner permitting premises to be used for child prostitution, two counts of an owner obtaining benefits from child prostitution and two counts of inciting acts of child prostitution.

Mr Hilton has strenuously denied the charges. He denied knowing that two girls, one aged 13 and one aged 14, were under age, telling reporters, first, "Jesus, is that true?", which was reported in the *Illawarra Mercury* on 29 August 2003 and, according to the *Sydney Morning Herald* on 31 August 2003, "They both told me they were old enough. I may have supervised them from time to time but I want to make it clear it wasn't me who hired them." He also said, "That's what they told me. They've obviously fully filled out." Those statements were reported in the *Illawarra Mercury* on 16 September 2003. I understand that Mr Hilton's wife works for the new Labor leader Mark Latham.

This is all relevant to this bill because at the time of the revelations in the *Illawarra Mercury* it was reported that there was confusion of the status of brothels in the region. One councillor said that it was common knowledge where they were. Another councillor, Australian Labor Party Councillor Kiril Jonovski, was reported as stating that he did not know there were any brothels in town. Yet the council has made it clear that no licences for legal brothels have been issued in the area, although an application was approved for an escort agency in 1993. Escort agencies are not approved for the purpose of on-site sex. It is this loophole that makes it difficult for councils to crack down on so-called escort agencies that are offering the services of a brothel because they have to commit resources to prove the difference between an escort agency and a brothel and then face months in the Land and Environment Court.

So many illegal sex businesses are operating. Port Kembla Chamber of Commerce President, Janette Bryant, raised this issue with me and asked the Liberals and me to consider it when we are considering further reform. I have given her a commitment to meet with her and discuss these practical problems with a view to seeing what more can be done. Ms Bryant wrote to me on 31 October 2003 after having heard me speak about this bill on ABC Illawarra local radio. She wrote:

I listened with interest to your interview this week on ABC Illawarra regarding proposed legislation you are seeking to enact to deal with illegal brothels and strengthening local government powers. While Port Kembla has received publicity on this issue our biggest problem relates to legislation dealing with sex worker activities and its impact on commercial activity within Port Kembla's Wentworth Street. Legislation regards street sex work as lawful as long as it is not within view of a school, church or residence.

She went on to state:

Port Kembla's retail traders have suffered this problem for long enough. I want the current legislation changed only enabling street sex work activities to lawfully take place in light industrial areas. There is no place for street sex work activities within central business districts or general business zonings.

I am looking forward to discussing this further with Ms Janette Bryant at a mutually convenient time in the future. Ms Bryant was so concerned about the situation and about the welfare of women who work as street workers that she sent me photographs of their appalling and dangerous living conditions. The tragedy of the situation is made worse by the fact that Labor members tried to prevent those photographs being seen when I raised the issue in Parliament. As long as illegal brothels continue to be able to operate in ways that defy councils' will and resources to shut them down, women—including young, under-age women—will continue to find themselves prey to people who own illegal premises and promise them a roof over their heads and a bit more security than a cardboard box.

On 16 September 2003 an article appeared in the *Illawarra Mercury* that referred to two under-age girls allegedly working in the Southern Belles brothel, which is part-owned by Mr Hilton, in a lease agreement with Mr Dino Rossetto. The article stated, "The girls had wanted to work indoors where it was safe and secure". That is the crux of this issue.

Mr SPEAKER: Order! I do not wish to interrupt the member's second reading speech. However, I should like to sound a note of caution. The Chair is unaware whether the matters now being referred to by the honourable member may come before a court and whether her comments may prejudice any court proceedings. I should also say that it is a longstanding practice that this Chamber cannot accept the veracity or accuracy of media articles.

Ms SEATON: Thank you Mr Speaker. It is not my wish to prejudice any legal proceedings. I am able to furnish to any member in this House copies of any of the media reports to which I have referred. Illegal brothels, which councils are powerless to shut down, make it easy for unscrupulous people to prey on the vulnerability of homeless young women who need shelter, wherever that may be in this State. Why has there been so much resistance by members in this place to taking the necessary steps to enact legislation that will help councils close down illegal brothels? I cannot help but feel uneasy about why the bill was voted down when the Leader of the Opposition, the honourable member for Pittwater, introduced it two years ago.

Members of the Labor Party voted down this legislation two years ago—legislation that would make it easier to close down illegal brothels and which are known to many councils to be illegal. Why is it so hard for certain members in this place to get tough on illegal brothels? Extraordinary events occurred in the lead-up to the annual general meeting of the Port Kembla Chamber of Commerce this year. According to media reports, at a meeting on 26 August Mr Hilton was elected as a junior vice-president of the chamber and Mr Harry Pitt was elected as secretary. Questions were raised by concerned chamber members, and reported in the public media, that Mr Pitt had been aware of allegations before and at the time of his nomination for this position. He has been reported in the media as saying, about his knowledge of these allegations, that "It was nothing to worry about."

On Wednesday 2 September an extraordinary meeting was held to consider Mr Hilton's role as a junior vice-president. He stepped down at that point in the face of local business concerns. Another member of the executive and former chair of the main street subcommittee, Mr Neville Despotovski, was also reportedly facing charges relating to a number of offences after raids on a local hotel in February.

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