



# Legislative Assembly

## Environmental Planning And Assessment Amendment (Illegal Backpacker Accommodation) Bill

05/09/2002

### Hansard Extract

#### Second Reading

**Mr BARR** (Manly) [10.02 a.m.]: I move:

That this bill be now read a second time.

This bill is modelled on the recent Disorderly Houses Amendment (Brothels) Bill in that it will allow circumstantial evidence to be considered in the prosecution of alleged backpacker premises. The increasing phenomenon of illegal backpacker premises is causing problems in a number of tourist areas, not only in my electorate of Manly but also in Waverley, other parts of Pittwater and up and down the coast. The issue with the illegal backpacker premises is twofold. Firstly, they impact unfairly and adversely on the amenity of the neighbourhood in the area in which they operate and, secondly, young people coming from overseas to enjoy our country are housed in substandard and illegal premises, which may cause health and safety problems through improper regulation. This bill will sort out those problems to ensure we have a good and viable backpacker business that operates under local council regulations for the benefit of everyone—local residents and the young people who come to enjoy holidays in Australia.

This is important legislation. In the Manly community there is much concern about illegal backpacker premises and this bill has the support of the Manly community precincts, particularly those most impacted upon by illegal backpacker operations. The bill also has the support of the Youth Hostels Association of Australia, from which I received an email supporting my proposed legislation. The Youth Hostels Association represents legitimate backpacker operators and, obviously, it is in its interests that those operations are organised properly and operate under council control. I received an email from a Bondi Beach resident, who states:

Dear David,

I am very heartened indeed by your bill to make it easier for councils to control backpackers. We are a group of Bondi Beach residents who have been fighting to get our council (Waverley) to act on these problems for ages and ages, with little effect. Your bill seems to be the solution and we look forward to receiving more details on this.

I believe I will have Government support for the bill and I hope to receive Opposition support also. That will represent a nice bit of tripartisanship in this House between an Independent and the two major parties! The backpacker market is thriving. Australia is a hot tourist destination and it is predicted that the number of tourists arriving in Australia over the next 12 months will have doubled. The backpacker market increased by 20 per cent over 12 months to June 2000. In 1999 there were 404,300 backpackers as opposed to 306,000 in 1997. Total expenditure from backpackers is around \$1.7 billion. Backpackers provide an important injection of funds into our economy. At the moment the tourism industry is in the troughs following the events of September last year as well as the collapse of Ansett Airlines.

The tourism gross domestic product [GDP] amounts to about \$25 billion, which is a contribution of 4.5 per cent to our GDP. Tourism directly employs over half a million persons, which represents 6 per cent of total employment. The tourism industry is very important, as is the backpacker industry, and, therefore, it is important to get things right and to have this industry regulated. The thrust of the bill basically is to insert after section 124 of the Environmental Planning and Assessment Act new section 124A "Evidence of use of premises as backpackers' hostel". Subsection 2 states:

(2) In any proceedings to which this section applies, the Court may rely on circumstantial evidence to find that particular premises are used as a backpackers' hostel.

The circumstantial evidence can include, but is not limited to, evidence relating to the following: persons entering and leaving the premises including the depositing of luggage that is consistent with the use of the premises for a backpackers hostel; the premises being advertised expressly or implicitly for the purposes of a backpackers hostel on or in the premises, newspapers, directories, or the Internet; internal and external signs, and notices at the premises including price lists, notices to occupants and offers of services that is consistent with the use of the premises for a backpackers hostel; the layout of rooms, and the number and arrangement of beds, at the premises that is consistent with the use of the premises for a backpackers hostel. That list by no means is exhausted, but it

will allow circumstantial evidence to be presented to the Land and Environment Court when a council wants to bring action against an unlawful operator.

Councils control backpacker accommodation in a number of ways. For example, in Manly the backpacker establishments are required to prepare, together with their development applications, a management plan that illustrates how they intend to minimise the impact of the facility and amenity on the surrounding area. They must enter into an agreement with council that allows council to inspect the premises twice a year and pay a fee of \$150 for that purpose. Those inspections are to ensure that the establishments comply with the conditions of consent and the regulations governing health and amenity, good management and number of guests per room. The establishments must ensure that the premises are maintained in a clean and safe manner in accordance with the local government authority.

The council's environmental health officers inspect the premises and make sure that the maximum number of guests per room is clearly marked in each room and is not exceeded. They ensure that the bathroom and toilet facilities are adequate and that shared facilities are provided. They also check the adequacy of the laundry facilities, cleanliness and maintenance, the provision of waste management and the reasonable provision of disability access. It is important that these regulations are in place to prevent tragic situations, such as the breakout of fires and injury to occupants. The legal operators must comply with these conditions. They play the game; the illegal operators do not. This legislation will assist councils to close establishments that do not comply. The illegal establishments often operate in a cash economy and do not pay the appropriate tax. The legal operators are at a competitive disadvantage because the illegal establishments undercut their prices by stinting on compliance with health and safety conditions.

One of the pleasures I have in Manly is watching the young backpackers alight from the ferries and look around at their destination. We wish those young people well. They come from all over the world. We know that they could easily be our children. I have two children of backpacker age. One is just about to become a backpacker, and she is already threatening to go on the big trip. As parents, we want to know that when our children go overseas and use backpacker accommodation they will be looked after and provided with the creature comforts they need. We hope that their health and safety is looked after so they can enjoy their stay and not be at risk. We have to make sure that the young and not so young people who come to our shores can enjoy their holiday in safety in lawfully operated premises.

We also have to ensure that those premises do not adversely impact on neighbours, by way of excessive noise or drunken parties, and that they comply with the regulations. The two broad purposes of the bill are to ensure that the backpacker establishments are safe for guests and that they do not impact on the amenity of the neighbourhood. In that way we can all live comfortably together. We can enjoy the company of the backpackers who come to our shores and they can enjoy our hospitality in safety and security. That is the essence of the bill. I commend the bill to the House.