

PROSTITUTION CONTROL BILL 2003

Consideration in Detail

Debate was interrupted after part 9, as amended, had been agreed to.

Schedules 1 and 2 -

The DEPUTY SPEAKER: The question is that schedules 1 and 2 be agreed to.

Schedules put and a division taken with the following result -

Ayes (27)

Mr J.J.M. Bowler	Mrs D.J. Guise	Mr M. McGowan	Mr E.S. Ripper
Mr C.M. Brown	Mr J.N. Hyde	Ms S.M. McHale	Mrs M.H. Roberts
Mr A.J. Carpenter	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr D.A. Templeman
Mr A.J. Dean	Mr R.C. Kucera	Mrs C.A. Martin	Mr P.B. Watson
Mr J.B. D'Orazio	Mr F.M. Logan	Mr M.P. Murray	Mr M.P. Whitely
Dr J.M. Edwards	Ms A.J. MacTiernan	Mr J.R. Quigley	Ms M.M. Quirk (<i>Teller</i>)
Dr G.I. Gallop	Mr J.A. McGinty	Ms J.A. Radisich	

Noes (17)

Mr C.J. Barnett	Mr J.P.D. Edwards	Mr A.D. Marshall	Dr J.M. Woollard
Mr D.F. Barron-Sullivan	Mr B.J. Grylls	Mr B.K. Masters	Mr R.N. Sweetman (<i>Teller</i>)
Mr M.J. Birney	Ms K. Hodson-Thomas	Mr P.D. Omodei	
Mr J.H.D. Day	Mr M.G. House	Mr P.G. Pandal	
Mrs C.L. Edwardes	Mr R.F. Johnson	Mr T.K. Waldron	

Pairs

Mr S.R. Hill	Mr M.F. Board
Mr P.W. Andrews	Ms S.E. Walker
Mr A.D. McRae	Mr J.L. Bradshaw

Independent Pair

Dr E. Constable

Schedules thus passed.

Schedule 3 -

Mrs C.L. EDWARDES: This schedule deals with planning schemes. What direction has been provided to local councils about how these schemes are to be incorporated into their town planning schemes? For example, in the case of the City of Joondalup, can the schemes be incorporated into part 5 of its district planning scheme, which deals with special controls?

Mrs M.H. ROBERTS: In developing these clauses we sought advice from the Department for Planning and Infrastructure, and this schedule is the result of that advice. Unfortunately the advisers who are with me at the moment are not familiar with planning schemes and how they are amended, so I am going on the best of my knowledge of how planning scheme regulations are put in place. Regulations will need to be put in place for these planning schemes. My understanding is that that will need to be initiated by the Minister for Planning and Infrastructure, who is the minister responsible for that legislation. It would be done in a similar way to how X-rated uses are incorporated into planning schemes.

Mrs C.L. Edwardes: X-rated uses are not allowed in Western Australia.

Mrs M.H. ROBERTS: I mean restricted bookshops and things like that.

Mrs C.L. Edwardes: They are R-rated.

Mrs M.H. ROBERTS: Yes. I recall that there was an issue some years ago when some shires attempted to amend their planning schemes because they wanted to ban shops like Barbarellas from being within their shire boundaries. I mistakenly called it X-rated. Perhaps it is R-rated, in terms of a morality rating rather than any kind of planning rating.

Deputy Speaker; Mrs Cheryl Edwardes; Mrs Michelle Roberts; Mr Jeremy Edwards; Mr Matt Birney; Mr John D'Orazio

Mrs C.L. Edwardes: Will local governments be able to give directions as to how this clause will be incorporated into their planning schemes?

Mrs M.H. ROBERTS: Yes. We have had meetings with people from DPI and have sought advice on the best way to achieve that outcome, and DPI has advised that this legislation is the appropriate way to go.

Mr J.P.D. EDWARDS: I draw the minister's attention to the definition of "public release day". I understand that we need to have a public release day. Although these brothels will be illegal, they obviously will be approved regardless of whether they are acceptable to the local government in the area, so the local government's approval will not be relevant.

Mrs M.H. ROBERTS: I disagree with the member on that point. Subclause (8) on page 132 states -

In considering an application for approval under subclause (6) the Board is to liaise with the local government of the district in which the land is located and is to consider . . .

It then lists in paragraphs (a) to (i) the things that it needs to consider, such as whether the operation of the brothel or office causes a disturbance in the neighbourhood because of its size and the number of people working in it; whether suitable access has been provided to the brothel or office; and whether the operation of the brothel interferes with the amenity of the neighbourhood. These are all things on which the local government will have to advise.

Mr J.P.D. EDWARDS: Who will make the final decision if there has been liaison with the local government but there is disagreement between the local government and the board?

Mrs M.H. ROBERTS: For a brothel that was in existence prior to the public release day, the final decision will rest with the board. However, the board is compelled under subclause (8) to consider the advice from local government on all the matters listed in that subclause, including whether sufficient off-street parking has been provided and whether it interferes with the amenity of the local neighbourhood. All of that is spelt out in the legislation. The board must give consideration to those matters and liaise with local government. In making any determination, the board will have in front of it a full report from the local government authority as to whether it supports the application. That process is similar to what is happening in other licensing arenas, for example, with liquor licensing.

Local government has the say on planning approvals given to new brothels under this legislation. There are two final decision makers in a sense; for existing brothels the licensing board has the final say, and for new brothels, planning approval is given by the local government authority.

Mr M.J. BIRNEY: I draw the minister's attention to schedule 3, clause 1(3)(a). It states that -

the land is not within 300 metres, or such lesser distance as is permitted in the particular case by the person responsible for implementing the scheme, of a protected use place;

I take that to mean that a brothel or land that can be used for a brothel, cannot be within 300 metres of a protected use place. In the definition of "protected use places" under schedule 3, those places are -

. . . an educational establishment, child care premises or other place regularly frequented by children for recreational or cultural activities, a place of worship, or land in a residential zone or precinct;

I have two questions that relate to my electorate of Kalgoorlie and, more specifically, Hay Street. Hay Street is in an area surrounded by a mixture of businesses and houses. There are certainly residential houses within that 300-metre boundary around Hay Street - I stand correct, it might be 400 metres. As I read this provision, those houses could be in a mixed business zone, even though they are residential houses. That would certainly be the case for the houses to the west of Hay Street. However, one or two houses to the north of Hay Street would probably come within that 300-metre boundary and might be in a residential zone - I stand corrected. If those houses end up being in a residential zone, would the minister provide them with an exemption?

Mrs M.H. ROBERTS: I personally would not give them an exemption and nor would the Prostitution Control Board. However, I draw the member's attention to page 131, schedule 3, clause 1(3)(a). It states -

The use of land other than land referred to in subclause (1) or (2) for the purpose of a brothel or an attended prostitution agency office is a use not permitted by the scheme unless planning approval has been given under the scheme, and planning approval is not to be given unless the person giving the approval is satisfied that -

- (a) the land is not within 300 metres, or such lesser distance as is permitted in the particular case by the person responsible for implementing the scheme, of a protected use place; and

Deputy Speaker; Mrs Cheryl Edwardes; Mrs Michelle Roberts; Mr Jeremy Edwards; Mr Matt Birney; Mr John D'Orazio

That person would normally be an officer of a local government authority. The situation the member described would probably be comparable with that in some areas in Northbridge. The member for Perth has drawn to my attention that a number of brothels operate in William Street, Northbridge in areas of mixed use or varied zonings, including residential. Therefore, some residences are currently in reasonably close proximity to brothels. I expect the situation is the same in the instance to which the member just referred. There is no problem for existing brothels because they are virtually given automatic planning approval, even though they then have to get a licence. The power to give planning approval to new brothels has been given to local government authorities under this legislation. I do not think that is a power that local government authorities would use lightly. In the main, I think they would err on the side of caution. However, the member for Perth suggested that if the Town of Vincent, for example, has a demand for an additional brothel or the relocation of a brothel that people would rather see go to William Street - being a major thoroughfare, albeit in reasonably close proximity to some houses - the Town of Vincent would determine whether it was prepared to accept a lesser distance and make an exception. In the member's case the City of Kalgoorlie would make the decision.

Mr M.J. BIRNEY: I will explore that proposition a little further. I present a scenario that may well come about. If a potential brothel owner applies for a brothel licence in a certain part of town and that brothel licence is then subsequently approved, and, at some later stage, a child care -

Mrs M.H. Roberts: New brothels must first get planning approval from the council. They cannot apply to the board for a licence until they can demonstrate that they have planning approval.

Mr M.J. BIRNEY: That was not the point I was trying to make.

Mrs C.L. Edwardes: But it is virtually an approved land use, so a council would have no power to refuse the planning approval.

Mr M.J. BIRNEY: To existing ones?

Mrs C.L. Edwardes: No, we are talking about new ones.

Mr J.B. D'Orazio: New ones must be in industrial areas.

Mrs C.L. Edwardes: Yes, in this planning scheme.

Mr M.J. BIRNEY: That is fine if they are in industrial areas. There is a massive child-care centre called, from memory, the Fun Pit in an industrial area in Kalgoorlie. A brothel might have received planning approval to set up its operations in an area such as that, but at some stage in the future a child-care centre might want to move into vacant premises 250 metres away.

Mrs M.H. Roberts: A child-care centre could not simply move in there; it would have to get planning approval.

Mr M.J. BIRNEY: Let us say it was given planning approval; there would then be a child-care centre within a 300-metre radius of a brothel, which is contrary to what the Bill allows.

Mrs M.H. Roberts: It would be up to the local government authority. Under clause 1(3)(a) of the schedule, the local government authority has the power to reduce that 300-metre radius in special circumstances and it would take that into account when deciding whether to approve the child-care centre.

Mr M.J. BIRNEY: Why does the Bill say 300 metres? Why not just say that the decision is up to the local government? I think that was a bit of a media stunt.

Mrs M.H. Roberts: No. First, we wanted to give some guidance to local government authorities and, secondly, to make it clear that it was on their head if they gave approval for something to be established under that 300-metre radius. They would be making a decision that was permissible, but not according to the general recommendation in the legislation, and they would have to explain that decision to their local constituency.

Mr M.J. BIRNEY: Theoretically they would have to explain it to their constituency in any case. I fail to see why the minister has included the provision for 300 metres, unless it is a media stunt so that she can say to the media that these things cannot be approved within 300 metres of a kiddies' playground when in reality the local council will decide that, not the minister. The 300-metre provision is superficial and has no effect, given that local government can override it.

Mrs M.H. Roberts: I suggest to the member that he cannot eat his cake and have it too.

Mr M.J. BIRNEY: Actually, I would suggest that to the minister.

Mrs M.H. Roberts: On the one hand the member wants local government to use some commonsense and to have powers, and on the other hand he wants us to make a hard and fast rule that would be to the detriment of local communities.

Deputy Speaker; Mrs Cheryl Edwardes; Mrs Michelle Roberts; Mr Jeremy Edwards; Mr Matt Birney; Mr John D'Orazio

Mr M.J. BIRNEY: I am simply saying that there was no need to include the 300-metre provision or any other part of that clause that gives local government a discretion. The two provisions do not co-exist. If local government has the power to make a decision, the 300-metre provision means absolutely nothing.

Mrs M.H. Roberts: It gives local government the power to reject brothels in that 300-metre zone, which then becomes an absolute power. One criticism of the member for Kingsley was that a council had no option but to accept it if it was a permitted use. This clause strengthens the council's power. If a council rejects a brothel wanting to establish in a 300-metre radius, it cannot do so without fear of the decision being overturned.

Mr M.J. BIRNEY: It could do so if the 300-metre provision were removed. For the record, I say that the 300-metre provision is a media stunt and means nothing.

Mr J.B. D'ORAZIO: I disagree strongly with the member for Kalgoorlie. An application to operate a brothel within 300 metres of a residential area requires special approval from the council. The council has a discretion to approve a brothel in an industrial zone if that zone is within 150 metres of a residential area. If the Bill did not contain the 300-metre provision, approval would be automatic and the council would have no discretion to say no.

Mr M.J. Birney: You could leave in the clause about the council's discretion and just get rid of the 300-metre provision, because it means nothing.

Mr J.B. D'ORAZIO: It does.

Mrs C.L. Edwardes: It means you don't put the brothel next door but, rather, three streets away.

Mr J.B. D'ORAZIO: Some areas have residential zones next to industrial zones. If the 300-metre provision were not there, a brothel could be approved for an industrial zone and be one house away from a residential zone.

Mr M.J. Birney: Not if the local government has a discretion on the appropriate distance; that is pretty much what this Bill has done.

Mr J.B. D'ORAZIO: That is right and that is why it needs the 300-metre provision. The distance of 300 metres is a minimum distance; a brothel should not be less than 300 metres from a residential area. However, the council may approve a brothel, for instance, in metropolitan Perth. Most councils would not do that. The member for Greenough referred to pre-existing brothels. There is no difference between a brothel and any other business when it comes to approvals for non-conforming use of land. There are currently non-conforming provisions in town planning schemes that do exactly what this clause says. This Bill states that brothels are allowed to operate under that provision if they currently exist.

An aspect that has not been mentioned is a council disputing that premises were operated as a brothel before the Bill was passed. However, that is a matter for somebody else to argue at the appropriate time.

Mrs C.L. Edwardes: Will the member for Ballajura, as a person who has experience of local government, explain to a lay person how far is 300 metres?

Mrs M.H. Roberts: It is the length of six swimming pools.

Mr J.B. D'ORAZIO: One hundred metres is quite a distance. The member may envisage the running track at the Olympic stadium.

Mrs C.L. Edwardes: What is the length of the Chamber?

Mr J.B. D'ORAZIO: About 20 metres. The track around the Olympic stadium is 400 metres, therefore we are talking about three-quarters of that. It is a fairly large distance.

Mrs C.L. EDWARDES: I do not think that is a large distance at all. I am thinking of "Jimbaroo" and "Yellow Bananas", the kids' happy fun parks in the middle of a light industrial area in Joondalup.

Mrs M.H. Roberts: Is this a kids' place you are talking about or a brothel?

Mrs C.L. EDWARDES: It is a very serious matter, minister. These are kids' fun parks where mums, dads and grandparents can let their kids run wild.

Mrs M.H. Roberts: The member for Kalgoorlie thinks his fun park is a child-care centre!

Mr M.J. Birney: I have been accused of many things but not that.

Mrs C.L. EDWARDES: I have no doubt that the member for Kalgoorlie knows exactly what he is talking about.

Mrs M.H. Roberts: You have to have kids to fully appreciate these fun parks.

Deputy Speaker; Mrs Cheryl Edwardes; Mrs Michelle Roberts; Mr Jeremy Edwards; Mr Matt Birney; Mr John D'Orazio

Mrs C.L. EDWARDES: I have kids and grandkids and they are the saviour of grandparents. We can go to the fun park and have breakfast and a nice cup of coffee and the kids can run riot. I do not want to park in a street that is busy with clients queuing up for the local brothel.

Mrs M.H. Roberts: The member for Kingsley said that setting the hours of operation of a brothel would not be of any benefit. These are the exact circumstances in which a brothel could be approved to operate; that is, only in the evening after a certain time when the fun park is not operating.

Mrs C.L. EDWARDES: That is a good point for the City of Joondalup.

Mr A.P. O'Gorman: Does the member for Kingsley recall a former member who said for four years that there were no brothels in Joondalup? The council now does not have the power to shut down one brothel there. This Bill will give the council some rights.

Mrs C.L. EDWARDES: We could do a tour and dot on the map all the brothels in the northern suburbs.

Mr A.P. O'Gorman: Does the member for Kingsley think that she and I touring the brothels would get into the *Wanneroo Times*?

Mrs C.L. EDWARDES: The member for Joondalup would be safe in my company.

Mr A.P. O'Gorman: I am sure I would.

Mrs C.L. EDWARDES: In respect of clause 1(6) of schedule 3 relating to currently existing brothels prior to the public release date of the Green Bill, how many existing brothels are within 300 metres of a protected place?

Mrs M.H. ROBERTS: I do not know the exact number off the top of my head. I know that there are quite a number in the Town of Vincent and there are a couple in Victoria Park. Guessing a percentage is difficult. I would say less than half.

Mrs C.L. EDWARDES: Is the minister talking about 25?

Mrs M.H. ROBERTS: The advice to me is that it is even less than that. It is definitely less than 25 and maybe considerably less. The real nub is that most of those have existed for a very long time. Generally, they have coexisted with those other uses without too much difficulty. In fact, many of them predate the other uses.

Mrs C.L. EDWARDES: I am surprised. I am sure there was a huge debate about whether the Government should approve existing brothels and whether they should have to go through the processes that will apply to new brothels. If nothing else, there are financial implications. By including these provisions in schedule 3, the Government is giving existing brothels an increased level of value. I am sure the minister has gone through that. I am surprised that she did not find out prior to the introduction of this legislation exactly where existing brothels are likely to be and any problems that might arise from that.

Mrs M.H. Roberts: We anticipate receiving strong advice on that from local government. The member for Ballajura asked how a brothel would be able to demonstrate that it was operating before a particular date. The onus will be on the operators of the premises to demonstrate that.

Mr M.J. Birney: Will they have to provide a few affidavits detailing the names of clients? How will they demonstrate that?

Mrs M.H. Roberts: I tell the House of my experience in local government. The health officers of the City of Perth knew where every brothel was. That was when it was the bigger City of Perth, so the officers knew of all the brothels in Victoria Park, Highgate, North Perth and wherever. They visited those premises in their professional capacities. The health and planning people also went to premises that were claimed to be massage parlours to check out those claims. They scrutinised those premises. Local governments know on which premises brothels have been operating.

Mrs C.L. EDWARDES: What roles will the local government health and planning people have? For instance, the planning use is prescribed. A local government will have the opportunity of reducing the 300-metre restriction. Any building permit or increase or change in premises would have to go before the local council. There would be checks to make sure places were complying with health regulations.

Mrs M.H. Roberts: It would not be any different from how those officers currently operate. There will be no additional requirement. In some regard, health officers have stronger powers than do police officers.

Mrs C.L. EDWARDES: What about fishing inspectors?

Mrs M.H. Roberts: I do not know about that.

Deputy Speaker; Mrs Cheryl Edwardes; Mrs Michelle Roberts; Mr Jeremy Edwards; Mr Matt Birney; Mr John D'Orazio

Mrs C.L. EDWARDES: Clause 1(5) states that a prostitution booking office is an office within the meaning of the scheme but that an attended prostitution agency office is not. Can the minister explain that?

Mrs M.H. Roberts: Prostitution booking office is defined on page 134, and attended prostitution agency office is defined on page 133.

Mrs C.L. EDWARDES: It is very confusing. When is an office an office and when is it not an office? When are the offices considered to be legally attended, regardless of the restriction? What if the friends or driver of a sex worker simply turn up but not for any particular proposal?

Mrs M.H. Roberts: I do not see that as an issue. What would be the problem with that?

Mrs C.L. EDWARDES: Can the minister explain the clause? It is very confusing.

Mrs M.H. ROBERTS: I find it reasonably clear -

Mrs C.L. Edwardes: Probably because you have been dealing with it.

Mrs M.H. ROBERTS: One office is essentially a call centre. No girls operate out of it. The girls might operate in flats, units or houses all around the metropolitan area. The office is a call centre, and no prostitution occurs at and no prostitutes visit those premises.

Mrs C.L. Edwardes: Thank you.

Mr M.J. BIRNEY: I revisit the issue of the 300-metre exclusion zone. An officer of the council can choose to waive that zone.

Mrs M.H. Roberts: No, the council must decide that.

Mr M.J. BIRNEY: That is my point. Clause 1(3)(a) states in part -

the land is not within 300 metres, or such lesser distance as is permitted in the particular case by the person responsible for implementing the scheme, of a protected use place;

Mrs M.H. Roberts: That is to cover bodies that are not councils, such as redevelopment authorities. If the legislation referred specifically to councils, it would not cover bodies such as the Subiaco, East Perth or Midland Redevelopment Authorities.

Mr M.J. BIRNEY: I imagine that the person responsible for implementing the town planning scheme would be the town planning director or chief executive officer of the council. It would not be the council itself. The council is a body, not a person. The people who should have responsibility for deciding to waive the 300-metre exclusion zone are the elected members of the council, not the CEO of the council or the town planning boss. However, this Bill specifically says that the person responsible for implementing the scheme can vary that 300-metre zone.

Mrs M.H. Roberts: I do not think you are right. The town planner cannot override the council.

Mr M.J. BIRNEY: Who is the person responsible for implementing the scheme? The council is not a person.

Mrs M.H. Roberts: The council is responsible for implementing the scheme. Those words were suggested to us by parliamentary counsel so that the legislation would incorporate all situations in which a council, redevelopment authority or someone else administered an area.

Mr M.J. BIRNEY: As I understand it, the council would be responsible for bringing down the scheme, and the person responsible for implementing it would be the CEO or town planning director.

Mrs M.H. ROBERTS: I am advised that under the Interpretation Act -

Mr M.J. Birney: I must read this Interpretation Act.

Mrs M.H. ROBERTS: Under the Act, a person does not necessarily mean an individual.

Mr M.J. BIRNEY: The member did not hear my last point. Theoretically, the council would be the body charged with approving the scheme. The person responsible for implementing it would be the town planning director or the CEO.

Mrs M.H. Roberts: That is not how it works.

Mr J.B. D'Orazio interjected.

Mr M.J. BIRNEY: I accept that. The minister tells me that the Interpretation Act says that a person does not necessarily mean a person. I will read the Interpretation Act. I am happy with that answer. I want to move onto the greater question of who is responsible for implementing the scheme.

Deputy Speaker; Mrs Cheryl Edwardes; Mrs Michelle Roberts; Mr Jeremy Edwards; Mr Matt Birney; Mr John D'Orazio

Mrs M.H. Roberts: The council is. Council meetings are held each fortnight or month, and that is when councils make decisions on the town planning schemes. The town planner does not autocratically make the decision. There are levels of application that every council determines can be delegated. An application to erect a wall, pergola or something like that can be dealt with at officer level. However, local governments would deal with something like this themselves.

Mr M.J. BIRNEY: The council passes a scheme and hands it over to the council officers and tells them to implement it. The officers are the people implementing the scheme. I do not know how it could be any other way.

Mrs M.H. ROBERTS: The member for Ballajura spent a long time on the council of the City of Bayswater, much of it as mayor. I was on the Perth City Council for about eight years. It is not the case that the council signs off on a scheme and lets the town planner implement it. Town planning is probably the biggest part of any council's agenda. When I was on the City of Perth, three or four hours of a six or seven-hour council meeting would be devoted to town planning matters. There was no way we as a council abdicated our responsibilities to the town planner. I think that under the Town Planning and Development Act, a council could not legally abdicate its responsibilities to a town planner.

Mr M.J. BIRNEY: I do not accept the minister's representation, but I have to move on. The issue of pre-existing brothels being granted exclusive town planning approvals is interesting, particularly as the minister does not have a list of every brothel in Western Australia. She said earlier that the onus would be on the brothel to prove -

Mrs M.H. Roberts: The police have a very comprehensive list of suspected brothel premises in Western Australia. One or two may be missing.

Mr M.J. BIRNEY: Should this legislation pass - shock, horror - a brothel owner will be required to get a brothel licence. Would it not be prudent for the brothel owner to prove that the brothel was a pre-existing brothel? I can see in three to 10 years a problem arising with a brothel being told it had no planning approval. The brothel may not have the capacity to prove it was a pre-existing brothel. It would make more sense that when the brothel owner approaches the Prostitution Control Board for a licence, it be proved up-front, when everything is fresh in everyone's mind, that it was a pre-existing brothel.

Mrs M.H. ROBERTS: As I pointed out to the member for Greenough, in order for a pre-existing brothel to obtain a licence, it must go to the Prostitution Control Board, which is compelled to liaise with the local government authority on that licence. If an issue arises about whether it was a pre-existing brothel, it could be taken up at that time. I would expect the local government authority to take the matter up with the prostitution licensing authority. If the local government body does not believe it is a pre-existing brothel, it could argue accordingly. Basically, the authority would be advised that it believes it was a pre-existing brothel. It would seek the local government authority's comment. Therefore, it would be clear at that moment. If someone were to operate for three years as a brothel, and claim it had planning approval, it presumably would have been operating without a licence and would have broken the law for that time. I hope I have explained the steps clearly. If it is a pre-existing brothel, it is deemed to have that planning approval. However, the next step is to go to the licensing authority for a licence. That licence is not granted until liaison has taken place with the local government authority. The control board will then make a decision. In making that decision, it will determine whether it is a pre-existing brothel. It will take evidence from whoever wanted to provide evidence on whether it is a pre-existing brothel. The licensing authority will be compelled under the legislation to liaise with local government authorities.

Mr M.J. BIRNEY: The minister said earlier that the police had a comprehensive list of every suspected brothel in Western Australia. In the interests of transparency, and as they will become legal operations, will the minister table that list?

Mrs M.H. ROBERTS: I draw the member's attention to a schedule tabled by the member for Darling Range when he was Minister for Police a couple of years ago. This was a fairly comprehensive list. At this point, I think it would compromise the Government's position and the position of the Prostitution Control Board to release that list. By way of example, someone might operate a legitimate service such as a massage parlour, and for some reason police may have come to the wrong conclusion about it operating as a brothel. If such persons found they were on the list, it would be easy for them to make a claim. I am not sure that the public interest would be served by making that list publicly available. My recollection is that the member for Darling Range tabled a list about four years ago that was pretty comprehensive.

Mr M.J. BIRNEY: I am pleased to hear that the member for Darling Range had the guts to table that list.

Deputy Speaker; Mrs Cheryl Edwardes; Mrs Michelle Roberts; Mr Jeremy Edwards; Mr Matt Birney; Mr John D'Orazio

Mrs M.H. Roberts: The member for Darling Range was not proposing to give all the operations planning approval - that's the difference.

Mr M.J. BIRNEY: Does the minister not think Parliament has a right to scrutinise these properties that will jump existing town planning laws and be given exclusive town planning rights? Does this Chamber have the right to scrutinise all businesses afforded the special recognition? There is no point in looking at the list the member for Darling Range presented because it was tabled four years ago.

Mrs M.H. ROBERTS: There's not a lot of difference between the two lists. If the member would like to look at the list, he is welcome to do so. At the time that I am proposing legislation to give these operations automatic planning approval, it would not serve the public interest to make the list public. If the member for Kalgoorlie or any other members want to personally view that list -

Mr M.J. Birney: Will you post one to me?

Mrs M.H. ROBERTS: It depends whether the member intends to make it public.

Mr M.J. Birney: What if I promise not to make it public? I hereby give that undertaking.

Mrs M.H. ROBERTS: I will give consideration to that request and I will take advice from the Police Service.

Mr M.J. Birney: That sounds like a no.

Mrs C.L. EDWARDES: Home occupations are not covered under schedule 3. As it deals with planning schemes and local government approvals, will the minister place on record that local councils under their restricted planning schemes will have powers over home-based occupations; that is, self-employed persons operating from their places of residence?

Mrs M.H. ROBERTS: Is the member not referring to any part of schedule 3?

Mrs C.L. Edwardes: No. The legislation deals with planning schemes and home occupations. Can the minister confirm the situation for local councils?

Mrs M.H. ROBERTS: I do not see any change with the legislation and the way such matters are currently operating.

Mrs C.L. EDWARDES: I seek further clarification. The protected use place provision deals with child-care premises. The consultation process raised the question of whether family day care was included in the definition of child-care premises. I have a letter from the Police Service that clearly highlights that family day care is included within the definition of child-care premises.

Mrs M.H. Roberts: That is because it is a place frequented by children.

Mrs C.L. EDWARDES: I wanted that placed on the record.

Schedule put and a division taken with the following result -

Extract from *Hansard*
[ASSEMBLY - Thursday, 26 June 2003]
p9434c-9441a

Deputy Speaker; Mrs Cheryl Edwardes; Mrs Michelle Roberts; Mr Jeremy Edwards; Mr Matt Birney; Mr John D'Orazio

Ayes (28)

Mr J.J.M. Bowler	Mr J.N. Hyde	Ms S.M. McHale	Ms J.A. Radisich
Mr C.M. Brown	Mr J.C. Kobelke	Mr A.D. McRae	Mr E.S. Ripper
Mr A.J. Carpenter	Mr R.C. Kucera	Mr N.R. Marlborough	Mrs M.H. Roberts
Mr A.J. Dean	Mr F.M. Logan	Mrs C.A. Martin	Mr D.A. Templeman
Mr J.B. D'Orazio	Ms A.J. MacTiernan	Mr M.P. Murray	Mr P.B. Watson
Dr J.M. Edwards	Mr J.A. McGinty	Mr A.P. O'Gorman	Mr M.P. Whitely
Dr G.I. Gallop	Mr M. McGowan	Mr J.R. Quigley	Ms M.M. Quirk (<i>Teller</i>)

Noes (18)

Mr C.J. Barnett	Mr J.P.D. Edwards	Mr A.D. Marshall	Ms S.E. Walker
Mr D.F. Barron-Sullivan	Mr B.J. Grylls	Mr B.K. Masters	Dr J.M. Woollard
Mr M.J. Birney	Ms K. Hodson-Thomas	Mr P.D. Omodei	Mr R.N. Sweetman (<i>Teller</i>)
Mr J.H.D. Day	Mr M.G. House	Mr P.G. Pandal	
Mrs C.L. Edwardes	Mr R.F. Johnson	Mr T.K. Waldron	

Pairs

Mr P.W. Andrews	Mr J.L. Bradshaw
Mr S.R. Hill	Mr M.F. Board

Independent Pair

Dr E. Constable

Schedule thus passed.

Debate interrupted.

[Continued next page.]