



Speech by

Jann Stuckey

MEMBER FOR CURRUMBIN

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BUILDING AND OTHER LEGISLATION AMENDMENT BILL (NO. 2)

Mrs STUCKEY (Currumbin—LNP) (8.01 pm): I rise to join the debate on the Building and Other Legislation Amendment Bill (No. 2) 2010, which was introduced into the House on 18 August by the Minister for Infrastructure and Planning. In doing so, I echo the sentiments of the shadow minister, the honourable member for Gympie. As members have heard, the LNP are offering bipartisan support for this legislation and will be moving some amendments that will offer further improvement to this legislation.

This bill will implement the second stage of the government's swimming pool safety improvement strategy following the completion of a comprehensive review of Queensland swimming pool safety laws in September 2009. A committee was established on 14 December 2008 to provide a report to government recommending improvements to pool safety laws. Membership of this committee included representatives from the Department of Infrastructure and Planning, the Local Government Association of Queensland, Kidsafe Australia, Queensland Master Builders and the Swimming Pool & Spa Association of Queensland.

After the review report, which contained 22 recommendations, was released in April 2009, the government sought public comments and held a series of forums across the state. The first stage of the swimming pool safety improvement strategy, which began on 1 December 2009, introduced a new safety standard for all new residential pools. All swimming pools built on or after that date must now undergo mandatory final inspections and display CPR signage. Stage 2 proposes to extend uniform safety standards to all existing pools across the state originally intended to be in place by the end of 2010. The first phase of stage 2 was enacted in May with the Building and Other Legislation Amendment Act 2010. This act established the legislative framework to support a new class of licensed pool safety inspectors, created the independent body the Pool Safety Council and established a state based swimming pool register.

The bill before the House today is the second phase of stage 2 and proposes amendments to the Building Act 1975 to extend pool safety laws to include pools at hotels, motels, other residential buildings, caretaker residences, caravan parks and indoor pools; to introduce a system for mandatory pool safety inspections at the point of sale and lease of properties with pools; to reduce the maximum depth of portable pools not requiring fencing from 450 millimetres to 300 millimetres—I might add here that children can still perish in one foot of water; to remove existing local government exemptions other than for those with a disability; to introduce a physical impracticality exemption to be administered by the chief executive; to require mandatory reporting to Queensland Health by public and private hospitals and the Queensland Ambulance Service of immersion incidents involving children; and to provide health professionals with the opportunity to voluntarily report pool immersion incidents.

The bill also amends the Animal Management (Cats and Dogs) Act 2008 to provide legislative clarity that amstaffs and american pit bull terriers are not the same breed of dog following a recent court decision involving a Gold Coast case. Amendments are also proposed to the Royal National Agricultural and Industrial Association of Queensland Act 1971 and the Sustainable Planning Act 2009. The focus of my contribution this evening will be on the aspects of the bill relating to swimming pool safety.

My colleagues and I fear that we will be back here within a year debating another change to this legislation to rectify the mistakes made by this incompetent Labor government. Again, it would seem that the drafting of critically important legislation has been rushed through without taking on board the wisdom of key industry stakeholders even though there was ample opportunity. Are we headed for a repeat of the pink batts, green loans or sustainability declaration form debacles? All three initiatives were poorly thought through, shabbily planned and appallingly implemented—all three abject Labor government failures, trumpeted as groundbreaking schemes yet failing disastrously due to sloppy planning, inept governance and true-to-form Labor government incompetence.

According to the explanatory notes, the objective of the government's pool safety reform is 'to help reduce the incidence of pool related immersion injuries and death' particularly for children under five. Unreservedly, the LNP supports stronger measures for pool-fencing laws, provided that they are fair and workable and that they afford the protection for which they are designed. As I have stated when addressing previous legislation on this subject, I have witnessed the tragic after-effects in my role as a paediatric nurse, and therefore it is my strongest belief that there can be no legislation or regulation implemented by government that dilutes the responsibility of parents and guardians to supervise their children in and around the pool or, for that matter, any body of water. Sadly, the majority of cases of immersions and drownings under five are preventable.

It is critically important that the message of swim safety advocate and Currumbin local Laurie Lawrence continues to hold precedence in early childhood—fence the pool, shut the gate, teach your kids to swim, supervise and learn to resuscitate. These five simple principles have, without doubt, saved countless lives over the 22 years that Laurie has been promoting the swim safety message to all Australians.

The swimming pool safety improvement strategy will replace 12 existing pool barrier standards with a single standard that applies to all regulated pools. This was a key recommendation of the review report presented to the government as a result of confusion from differing standards for pools built at different times. Compliance will be required at the point of sale or lease or within five years, whichever occurs first, for properties with non-shared pools. However, specific provisions have been provided for shared pools. Shared pools associated with short-term accommodation will be given a six-month phase-in period, while all other shared pools will be given two years.

I would question the government's motives of paramount child safety in light of the number of concessions that have been included in this legislation that favour the tourism industry. The explanatory notes state that this provision is a concession to this important industry, which may face difficulties reaching compliance at the start of the busy summer period—another example of poor planning and coordination by the Bligh government.

Incentive schemes have also been offered in this legislation, encouraging operators to 'get in early' in exchange for a two-year certificate instead of one year. Other shared pool owners will be given a two-year phase-in period, placing questions over why the safety of some shared pools is less urgent than others, and less urgent again for non-shared pools. Where is the uniformity in that?

Members of key industry bodies are discouraged by the government's last-minute decision to include a 90-day allowance with the point of sale and lease provisions within this bill. Where a seller has not secured a pool safety certificate prior to settlement, the onus is then placed on the purchaser to comply within 90 days. This is contrary to other mandatory point-of-sale obligations that must be borne by the seller, such as the installation of smoke alarms. This was pointed out by the honourable member for Gympie.

When considering child safety as the paramount objective of these changes, the consequences of legislating for a potentially dangerous situation to remain for as long as three months must be addressed. Research indicates 'the risk of drowning is highest during the first six months' in a new property—a direct quote from the minister's second reading speech. What the minister failed to mention, however, was that his government's policy will leave this hazard wide open. Who will take responsibility for a child who drowns in that 90-day period because of inadequate pool fencing? This is why the LNP will be putting forward an amendment.

I turn now to the provisions in the bill regarding exemptions. A stated aim of this legislation is to remove existing local government exemptions other than exemptions for persons with a disability. Whilst I understand the complexities encountered by many people with disabilities, having a disability does not preclude a person from having children in the home. Surely children of disabled persons should have adequate safety precautions in place as those with able parents and carers. Disability exemptions will continue to be decided by local councils. I note that the exemption is to remain with the person and not the property which offers reassurance to the individual concerned should they move to another residence. New occupiers will need to adjust the property to meet full safety requirements.

I also want to note the inclusion of impractical and somewhat contradictory compliance exemptions that will allow for a pool owner to apply to the chief executive for an exemption in the case of physical

movement of a building or wall being required for the construction of a fence or the removal of any protected vegetation under an act or local law. I do not doubt the impossibility of certain circumstances to erect a pool fence or similar safety device, but if the safety of children is the overriding principle why is the government prepared to relax laws for a protected species of plant?

Having the distressing experience of nursing paediatric immersion patients, I welcome the provisions in this bill enforcing mandatory reporting by hospitals of pool immersion incidents involving children. Reported data will undoubtedly enable a greater factual base to direct future policy for improving safety standards and procedures. Bath immersions, as a result of children being left unattended, should also be reported. Voluntary reporting by health professionals is also encouraged by protection from disciplinary action under this bill.

Of particular concern when considering the scope of this legislation is the considerable uncertainty as to the number of swimming pools in Queensland. In his second reading speech the minister alludes to some 325,000 pools existing in Queensland. However, SPASA, the peak industry body, suggests the figure is closer to 900,000 swimming pools across Queensland. If the minister has worked out his time lines on the figures he quotes then he has miscalculated greatly.

This gross inaccuracy could present some issues with the implementation and operation of the state based swimming pool register which was established in the previous legislation passed in May. To date, the minister still has not been forthcoming as to exactly how this will work. Perhaps he will enlighten us in his reply.

The following concerns were raised in a recent meeting with industry stakeholders on this legislation. Training and qualification requirements have still not been revealed even though the legislation is upon us. There is no requirement for prerequisite building or similar experience to become a licensed pool fence inspector. The costs of the training course and inspections look likely to be greater than the government's modest estimates which will undoubtedly be passed on to the consumer. The special provision that on-site inspections are not required for pools in remote areas of the state is of concern. Also, there were concerns that the department will approve course providers other than registered training organisations, as we saw with the ill-fated pink batts and green loan schemes. The 90-day period for compliance at the point of sale or lease defies the major purpose of the legislation which is to position child safety as the paramount objective as child drownings are more likely to occur in a new and unfamiliar dwelling. The requirements for fencing portable pools filled above the new 300-millimetre maximum depth cannot be adequately enforced. As I said, these were issues raised by industry experts, not by me.

It would seem from this extensive list of issues that Labor has not thought through this properly and obviously has not taken on board validated information from respected industry stakeholders. Of most concern is that there are no clear definite guidelines. This legislation reads, as is so often the case from the Bligh government, as a rudimentary draft, a naive work in progress, despite Bligh announcing new laws were on the way back in December 2008.

Such elementary planning is unacceptable for such far-reaching legislation that will affect so many people, particularly on the Gold Coast where my electorate is based. It is also imperative that legislation of this nature, with its mandatory requirements that have hefty financial consequences, be economical. Prohibitive costs to homeowners and the bodies corporate are an inevitable outcome of these stringent proposed safety measures, especially at a time when people on the Gold Coast and in my Currumbin electorate are really hurting from the spiralling costs of living under this Labor government. Fuel prices, electricity prices, water prices are all on a staggering unstoppable ascent with no reprieve in sight. Without question, the hip pockets of swimming pool owners will be hit hard by the provisions of this legislation.

According to the explanatory notes, pool upgrades are expected to cost \$95 million and pool safety inspections \$80 million over the first 10 years. It can only be assumed that these are completely unfounded estimates given there is no certainty as to how many pools exist in Queensland and the extent to which some homeowners will need to go to comply with these new standards.

As many pools on the Gold Coast have been designed with lake, canal or beach views in mind—and perhaps hinterland views, as is my case—it is understandable that some pool owners would be seeking a transparent glass or perspex fence that would not obstruct their views rather than the cheaper aluminium alternative. Costs could be in the vicinity of \$20,000, which is a hefty impost, particularly for homeowners whose exemptions will be removed abruptly by this legislation.

Due regard must be given to the effect these unprecedented compliance costs will have on the average household. In addition, checks need to be in place to ensure that prices do not suddenly go through the roof and cause a plethora of rogue operators to appear. According to the explanatory notes, the administration costs of the established Pool Safety Council are expected to reach \$19.7 million over 10 years to administer the pool safety inspection and licensing system. Once again, if this figure has been calculated on the minister's estimates then it is way off the mark and would be almost triple this amount.

Alarming, these costs are to be recovered in part by fees and charges levied on pool owners. I hope there will not be additional charges above and beyond the already imposing costs to meet compliance that pool owners will be forced to fork out for the administration of this government implemented independent council. I would ask if the minister would clarify which costs are being referred to here.

Of critical importance to the success of this safety reform is education—a sentiment that was shared by the review committee. Widespread awareness of the changes must be made a funding priority by the department and this government. In his second reading speech the minister referred to ‘developing a targeted education and awareness campaign’. I would ask the minister if he is able to inform the House of the progress of this campaign and the costs associated with it.

I again raise concerns from the debate of the previous legislation back in May that were brought to my attention by a private certifier. This experienced individual held reservations that the number of qualified inspectors will be far short of that needed to adequately and thoroughly inspect the existing number and future growth of pools in Queensland that this legislation will affect.

Given the number of pools across the state and the gross miscalculation being used by the minister, there are concerns about the volume of work that will be initiated by the mandatory point of sale and lease provisions proposed in the bill and having an adequate number of trained, qualified and licensed inspectors in time for the commencement of these provisions. These concerns have been compounded by our meeting with industry stakeholders who shared these exact reservations. It is now believed that the government’s own deadline of 1 December this year may not be met because, put simply, it is just not ready.

Tasked with approving training qualifications and eligible course providers, it is deeply concerning to learn that the Pool Safety Council established by the act in May only met for the first time a couple of weeks ago, which is completely unsatisfactory considering the closeness to the proposed commencement date. At this late stage the minister has not revealed what training modules will be required for licensing pool safety inspectors.

There are fears—and I mean genuine fears—that the implementation of nationally recognised training modules will be bypassed in the name of political expediency as the minister rushes to meet his self-imposed December deadline. In his rush to play catch-up the minister must be very careful that he does not compromise the efficacy of this legislation by approving short cuts to training that would permit substandard qualifications for people to become inspectors as this would present an unacceptable risk to the safety of children.

I ask whether the minister is prepared to take responsibility for a child who drowns as a result of a poorly trained inspector, one allowed to operate due to inferior standards set by his department. Already residents in my electorate have raised their concerns about a sudden proliferation of swimming pool inspectors converging on the suburbs, knocking on doors and ringing telephones signing people up for contracts and doing deals. Add to that inflated prices by pool fencing companies that will pop up overnight like mushrooms and a recipe for disaster looms for consumers.

In summary, the LNP is supportive of legislation for tougher pool safety laws to protect the safety of young children as the primary aim. However, as I have made unequivocally clear, we are not supportive of this Labor government’s haste in introducing poorly drafted, critically important swimming pool reform legislation. We are also not supportive of the fact that so much has been left unresolved, not allowing for a true indication of how these measures will be implemented. Unfortunately, this wait-and-see attitude simply does not cut it when the safety of Queensland’s children is at stake. I really hope that the minister is able to allay these fears in his reply.