



Speech by

**Jann Stuckey**

**MEMBER FOR CURRUMBIN**

Hansard Thursday, 12 November 2009

---

## **BUILDING AND OTHER LEGISLATION AMENDMENT BILL**

**Mrs STUCKEY** (Currumbin—LNP) (3.59 pm): I rise to speak in the debate on the Building and Other Legislation Amendment Bill, brought into the House by the Minister for Infrastructure and Planning, the honourable member for Stafford, on Thursday, 29 October this year, a mere two weeks ago. Yet again we have another example of a bill being rushed through this House and debated soon after it was introduced at the expense of other worthwhile bills which languish on the *Notice Paper*. Does the government not regard legislation that toughens laws for dangerous sexual offenders or that regulates prostitution as important? Whatever happened to the Charter of Budget Honesty Bill? More likely, this is yet another promise made in order to woo the green vote at the state election, as it is articulated by the minister that this legislation will fulfil an election promise. If only this Labor government would place the same degree of importance on other election promises such as the one made by the then minister for mines and energy to underground powerlines through Palm Beach and Currumbin. The silence is deafening from the government and the member for Burleigh, who refused to fight for her constituents.

The Building and Other Legislation Amendment Bill 2009 states as its policy objective 'to make amendments to a number of acts relevant to sustainable building practices and other building and plumbing matters'. Acts that will be amended include the Building Act 1975, the Plumbing and Drainage Act 2002, the Body Corporate and Community Management Act 1997, the Sustainability Planning Act 2009 and others. I will direct my comments today to amendments to the Building Act, the Body Corporate and Community Management Act and the Sustainable Planning Act.

I find it astounding that already the government is having to amend the Sustainable Planning Act, which was only brought in earlier this year. This is further proof that Labor is making flawed legislation on the run. This bill contains some amendments that are going to impact heavily on consumers in the name of sustainability. It is commendable, or more accurately responsible, for each of us to be environmentally conscientious and do what we can to make our houses and surrounds more compatible with the environment. But to impose laws that may have negative impacts upon countless innocent people is both incompetent and negligent. This government has built a desalination plant at Tugun that will chug through enormous amounts of electricity and produce an unholy amount of emissions, yet it has the audacity to force very detailed sustainability certificates onto the good people of Queensland.

I am fortunate indeed to live in the exquisitely beautiful electorate of Currumbin. I am well aware of the importance of living green and reducing our greenhouse gas emissions. Currumbin Valley is home to Queensland's finest example of sustainable urban development with its inspirational ecovillage—a state, Australian and international award winner. I encourage all members of this House to take a trip up to the Currumbin Valley and visit this amazing development.

This unique, six-star rated envirodevelopment accredited project consists of 144 lots located on a 110-hectare site. Currumbin's ecovillage is an excellent example of how to live in a highly sustainable, comfortable and environmentally friendly manner. Strict covenants call for building materials to be renewable, slab-on-ground building is prohibited, no bricks or tiles are allowed inside or out, mandatory thermal mass components are installed in every home, there is correct solar orientation of the building, and there is solar hot water with gas backup and energy efficient fittings, to name just a few.

As honourable members can well imagine, this absolute dedication to this degree of sustainability does come at a price. It is a price that not every citizen can afford or wishes to make as their lifestyle choice. Choice is the operative word here and this bill erodes it. People who do not satisfactorily fill in forms will almost certainly be disadvantaged compared to those who do. Then there are the legal ramifications, which I understand have caused the government to rush through some amendments to this legislation. Where are the mandatory building inspections for balconies and other renovations that are so needed in this state?

This bill has aspects which are offensive and unacceptable to the LNP which is why we will be opposing the sustainability declaration as it stands. Without doubt, the intent of this bill points in the right direction, but the provisions within it are poorly thought through and may well go the way of the Sustainable Planning Act and need revision within months or minutes, as we have witnessed already.

I also note comments in the Scrutiny of Legislation Committee's *Legislation Alert* of 10 November, issue No. 11 of 2009. It has a number of issues in relation to fundamental legislative principles and whether there is sufficient regard to the rights and liberties of individuals in this bill. Correspondence has been sent to the minister asking him to provide information on whether certain clauses do have sufficient regard to the rights and liberties of individuals. Unfortunately—or rather, I should say, insultingly—this report will not get back to the parliamentary committee before the bill is debated. So this committee's powers are to some degree being mocked by the government by bringing this bill forward before the committee has received a reply from the minister.

The amendment to 'ban the banners' by stopping bodies corporate and developers from restricting the use of sustainable and affordable design features such as light coloured roofs, single garages, smaller homes and solar hot-water systems presents a number of issues. It would appear that in the haste to draft this legislation, which I might add seems to be becoming fairly standard behaviour from this Labor government, it may have unintentional consequences such as dispute resolution.

Under this amendment, bodies corporate will not be able to impose restrictions of colour, size and shape in areas or projects that are being built in the future. I have seen firsthand the grief caused to neighbours when one decides to put a white reflective roof on a neighbouring property and it causes the other neighbour to literally not be able to look out the window on a sunny day because of the glare that bounces off the roof. The same could be said for tinted windows as well. Whilst they might be a sustainable initiative, it may have a negative impact and create a degree of friction in our suburbs if not carefully managed.

It is the introduction of mandatory completion of a sustainability declaration at the point of sale for houses, town houses and units which is a cause for grave concern. What started out as optional has now been made mandatory from 1 January 2010, which really does not give much time at all. I ask the minister if he would inform the House in his summing-up whether it only applies to new houses or units or to all houses and units. I do believe the government's amendment deals with exempting auctions but that still leaves a lot of ordinary sales.

There is an act in the ACT that is similar. This legislation is fraught with issues as to the implementation of this sustainability declaration. We have heard government members downplay the detail required to fill in these forms. It will only be a matter of time before these forms cause disputes and unhealthy comparative practices. I really do hope that we will not be in the position to continually have to say to government members, 'We told you so.'

Bringing in legislation rapidly like this will be the trigger for a flurry of new businesses to open up and leave the consumer vulnerable to fraudulent operators. I would hope that the minister has thought through the implementation of this in detail to avoid consumers being ripped off and certainly being misled. Perhaps the minister would reassure us of this point in his summing-up.

Altering properties to make them more appealing in a sustainable way in this short space of time will no doubt add some hefty costs that will have to be borne by either the new purchaser or someone, if not the owner. Having solar heating in my own home for over 20 years, compost bins and rainwater tanks on my acreage property, I know that it costs a significant amount of money to install these things. Whilst the benefits, especially to our environment are there, they are not things that everybody can dip into their pockets and buy.

When my family and I moved to the Gold Coast from Adelaide in 1987, we were shocked to learn that rainwater tanks were banned as we could not survive without them back there. My, how times have changed! Solar panels are a major investment for anyone to be considering, and the federal Labor government's flipping and flopping with rebates not only is irresponsible but also has cost jobs and incomes.

The bill, importantly, addresses mitigation of the impacts of noise in identified transport corridors, and this issue is of sizeable consequence in Currumbin where we waited some 20 years for the Tugun bypass to be built. The M1, which as anyone who commutes to Brisbane along it can attest, has become

very heavily utilised and often slows to a crawl. Residential suburbs adorn it on either side. My office regularly receives constituents with sound complaints—and I might say there is the occasional sound complaint in here, too—many of whom request noise monitoring. I note this legislation will enforce mitigation in areas that are about to be developed, so the developer will need to consider this noise attenuation prior to building. However, it is just as much an issue for people who are living in an existing area who have a state road through it.

Only last week I was presented with a report titled the *Tugun bypass year 1 post construction road traffic noise measurements* relating to an area from Stewart Road in Tugun to the New South Wales border. This document contains some very interesting information for people, and I want to share some of it with the House. I also want to place on record my thanks to Main Roads representatives who took the time to visit me and explain this document. This particular study was carried out for sound to be within limits until the year 2017. Road traffic noise levels were measured over a 12-month period and carried out at locations that were identified as sensitive and were exposed to road traffic noise impact in that manner. It is of particular interest when reading this report to learn exactly what are acceptable levels of noise and just how people's hearing reacts to different sounds.

Each of us has varying hearing aptitude ranging from highly sensitive to any noise to acutely deaf. Traffic noise complaints are common, as many honourable members would indisputably verify. However, an acceptable level for noise through this area was determined and was considered to be somewhere between 50 and 60 decibels. This sound pressure level is deemed to be similar to the noise you would expect in a department store or a general office and is evaluated as moderate to quiet. I imagine that this level of noise would be somewhere within the levels contained in the amendments of this bill. However, when we move up to 70 or 80 decibels, that is rated as an imitation of noise heard on the kerbside of a busy street or loud radio or television noise. This goes into a bracket that is subjectively evaluated as loud and would therefore be considered unacceptable and would not pass a feasibility study for residents who live in the vicinity of these roads.

I share this with the House because I think it is important to know just exactly what levels are considered acceptable in our communities today. In order to attenuate a lot of this noise, road traffic noise barriers and in-house noise attenuation treatments were provided when the traffic noise was measured and was going to exceed the criteria in the year 2017. Noise modelling of this kind is undertaken before the opening of a new road already or the upgrade of a project and is again continued 10 years later. I am told that the method used by independent consultants is very complex and incorporates topography, traffic volumes, traffic speed, traffic type, building locations, noise barrier locations and road surface type. Also included is a predictive percentage of heavy vehicle use. Noise levels are measured over two 24-hour periods and the modelling is undertaken between 6 am and midnight.

A lot of complaints are received about truck noise, and we have heard speakers refer to that in this House today, from both the Gold Coast Highway and, to a lesser degree, along the Tugun bypass and many of us have seen signs that say 'Urban area—please reduce noise' where we are hoping that trucks will consider sleeping neighbourhoods. We have a new residential development underway along the bypass, and this legislation would ensure that developers made noise mitigation adjustments necessary for residents to live comfortably.

Another amendment in this bill is expanding the role of building surveying technicians, or BSTs, supposedly to improve the career paths in the building sector but primarily to address the shortage of building certifiers. Opposition has been voiced by the Australian Institute of Building Surveyors as it does not believe that BSTs have sufficient skills to work in private certification without supervision. It would appear that this expansion of roles of people or watering down of qualifications is happening right across the departments within this Labor government in an attempt to fill shortfalls, many of its own making.

Acquisition of land to protect koala habitat is a positive step, and I commend the government on this amendment. I am a very strong advocate of the Currumbin Wildlife Sanctuary and its new hospital, which since opening only a few months ago has seen a massive increase not only in injured wildlife but in injured koalas. As I have said, I live in the Currumbin Valley and I have seen development encroach on our koala habitat and the number of koalas that used to scamper across my backyard has diminished greatly. In closing, we on this side of the House do recognise the importance of creating sustainable communities. However, legislation must be fair and balanced and not overly regulate people's lives or penalise them heavily financially.