



Speech by

Hon. Stirling Hinchliffe

MEMBER FOR STAFFORD

Hansard Wednesday, 15 September 2010

BUILDING AND OTHER LEGISLATION AMENDMENT BILL (NO. 2)

Hon. SJ HINCHLIFFE (Stafford—ALP) (Minister for Infrastructure and Planning) (12.41 pm), in reply: I want to thank all members for their constructive contributions to debate on the Building and Other Legislation Amendment Bill (No. 2) 2010, and I do mean that all members have made constructive contributions.

The bill amends seven acts in total. It implements the flagship stage of the Queensland government's swimming pool safety improvement strategy through amendments to the Building Act 1975 and consequent amendments to the Ambulance Service Act 1991, the City of Brisbane Act 2010 and the Local Government Act 2009. It also amends the Animal Management (Cats and Dogs) Act 2008, the Royal National Agricultural and Industrial Association of Queensland Act 1971 and the Sustainable Planning Act 2009. Each of these amendments contributes positively to Queensland's future, making it a safer, happier and more sustainable state.

The enactment of the bill will not only implement the remaining recommendations of the swimming pool safety review committee but also herald a new, strong and positive trend in the effectiveness of Queensland's swimming pool safety laws. The bill aims to build upon our already substantive reforms in this area and establishes a comprehensive regulatory framework designed to significantly reduce the occurrence of immersion injuries in Queensland swimming pools. While the government recognises that there may be some costs in upgrading pool fencing and other safety aspects, we recognise that this cost is part of the responsibility of owning a pool. The government is committed to a public awareness campaign on pool safety in the coming summer. Indeed, each year the government funds such a campaign and will do so again this year so that Queenslanders are aware of their responsibilities in this area, particularly with regard to the higher standards around pool safety fencing.

We developed a dual staged swimming pool safety improvement strategy designed to combat drowning deaths and based on the recommendations of an expert pool safety committee. Extensive consultation was conducted throughout each phase of the strategies. This ensured that no new pool fence could be legally built in Queensland without complying with contemporary safety standards, and this bill goes on to address existing pools. However, it is important to remember that this bill is not intended to replace parental supervision. Effective pool safety depends on parents and carers being vigilant in supervising young children around pools and on teaching young children to swim as early as possible, and I do acknowledge that a number of members have reiterated that important point. We will keep reminding parents and carers how important it is to always supervise young children around water and to begin swimming lessons early.

This bill implements a single, comprehensive safety standard which all regulated pools must comply with. This bill introduces a number of new offences, with stiff penalties for pool owners who choose—and I repeat choose—to endanger children. The bill also outlines grounds upon which local governments may grant exemptions. Those who physically cannot upgrade their pool and those who require alternative arrangements due to a disability will not be disadvantaged under this legislation. The exemption provisions are worded so that the safety of young children is not compromised and local governments may require any compensatory measures they desire to achieve this objective. The mandatory point of sale and lease

inspection systems have been composed to accommodate a vast array of circumstances and cover all regulated pools, be they leased or owned, shared or not shared, indoor or outdoor. A mandatory immersion incident reporting system will also be introduced. This will facilitate greater accuracy and completeness in the data that informs pool safety policy. It will also trigger appropriate remedial action amongst local governments in the event of an immersion incident, and I do note the number of members who have remarked upon that important element of this legislation. There are also provisions that help ensure each Queenslanders, particularly those in rural or regional areas, has adequate access to pool safety inspections.

The member for Gympie raised the matter of registered training organisations. I am advised that the three organisations that are developing training courses are in fact all RTOs. In order for a non-RTO to provide an approved course, a regulation amendment would be required. Finally, this is a matter that was dealt with by the House in the first BOLA legislation earlier this year. The member for Gympie also raised the matter of nationally recognised courses. I make the point that these are Australia's toughest pool safety laws and the first of their kind. There are no national competencies to adopt that address all aspects of the new laws. National courses that currently exist only address some parts of these laws, and even those parts would require further amendment in order to be relevant. Further and importantly, any courses are to be approved by the Pool Safety Council. A number of members made comments about the department or the government approving inappropriate courses. It is the Pool Safety Council—an independent and very rigorous body—that will be approving any courses.

The member for Gympie and a number of other members raised their concerns regarding the number of trained inspectors who will be available upon implementation of the new legislation. All swimming pools, except for non-shared rental pools on properties subject to either a new lease or a lease renewal, will be subject to a phase-in period. Rental properties only represent around 10 per cent of all properties with pools in Queensland. The department is also working closely with training organisations such as the Swimming Pool & Spa Association of Queensland and the Royal Life Saving Society of Australia to help ensure that there are sufficient licensed inspectors available. The bill also allows for the existing network of over 300 building certifiers throughout Queensland to issue pool safety certificates. A building certifier is taken to be licensed as a pool safety inspector and can carry out pool safety inspection functions. This will assist in ensuring the necessary capacity to meet the demand for certificates. I am also advised that over 300 people have proactively contacted the department to register their interest in becoming an inspector. Finally on this point, the bill will involve local governments in the provision of pool safety inspections to Queenslanders. This should be especially useful to pool owners in regional and remote parts of Queensland where it may not be so easy to access a private pool safety inspector.

The opposition raised concerns regarding the 90-day compliance period—a key point that we will come to during the consideration in detail stage. This period was developed in consultation with stakeholders including those mentioned by members opposite as well as the one they did not mention—the Queensland Law Society, a very important stakeholder. It was agreed that the 90-day model strikes an acceptable balance between the competing priorities of avoiding undue interference with the real estate market and promoting awareness of pool safety issues amongst purchasers. A key feature of the point of sale model is the requirement for the seller to give the purchaser notice prior to settlement if there is no pool safety certificate in place. It puts a spotlight on it, one that does not exist currently. This helps ensure that a purchaser is alerted to pool safety issues from the commencement of the new occupancy, the period identified as high risk in relation to swimming pool safety. At the moment it does not happen at all. There is no spotlight put on the issue. This point of sale process puts a spotlight on the issue. This model is similar to the three-month post settlement model introduced in Western Australia in 2002.

Some members raised concerns about remote inspections and local government's role. I am pleased to announce that the state government will provide a further \$100,000 in funding to assist in the training of local government pool safety inspectors. It is anticipated that this funding will allow more local authorities to have more powers to inspect more pools where it is required and also to be part of the compliance regime. If a local government inspector incorrectly issues a pool safety certificate based on a remote inspection—and I refer to the provisions that provide for other forms of inspection or indeed any other type of inspection—the local government may incur a liability. This is an important matter for local government. It already has responsibilities in this area and it will continue to have those responsibilities.

The member for Gympie and some other members raised the issue of portable pools. I have written to the then federal minister and have been advised that the federal government is considering national labelling laws for portable pools. Local government inspection regimes are a matter for local government, of course, but I would hope that if a local government is concerned about actions occurring on weekends it would address those concerns. I think councils have officers who deal with issues on a seven-day, 24-hour arrangement.

It will be an offence for a lessor to enter into a lease for a non-shared pool without a pool safety certificate. The trigger of entering into an accommodation agreement will catch all new leases and all renewals of leases. This broad application promotes the object of the bill—namely, to phase in the new

standard over the next five years. However, the bill introduces flexibility into the model in that the bill does not apply the trigger to a periodic tenancy that arises automatically under the Residential Tenancies and Rooming Accommodation Act 2008. When a fixed-term agreement comes to an end and the tenant remains in occupation, the lessor is allowed an opportunity to obtain a pool safety certificate while the tenant retains the benefit of the periodic tenancy provisions in the RTRA Act. As such, the bill will not alter the position of a lessor and a lessee under a periodic tenancy.

Finally, it has been part of the building legislation for many years that if a tenant owns a pool located on a rental property the tenant is responsible for this pool. This approach is consistent with the model adopted for the replacement and testing of smoke alarms under the Fire and Rescue Service Act—a set of principles that I think the honourable member referred to on a couple of occasions during this debate. It is significant that, where a periodic tenancy arises under the RTRAA, it does not involve a new occupant and, therefore, does not fall into that high-risk category, which is an issue that a number of members raised.

According to fatal immersion data recorded and maintained by Hannah's Foundation, between 2007 and 2009 10 out of 14 drowning deaths of young Queensland children occurred in swimming pools associated with rental properties. I make the point that only 10 per cent of rental properties have pools. So that figure demonstrates how pools on rental properties are such a significant and high risk. That is why we have taken that action in relation to those properties. While I make mention of Hannah's Foundation, I want to acknowledge Andrew Plint in the gallery and thank him and Kat for their role in promoting the importance of pool safety and the great advocacy role that they have played in the process of developing this legislation.

The member for Gympie also discussed the BSA contractor licence. This is again a matter that was covered in the BOLA No. 1 legislation, which we debated earlier this year. However, if an inspector wishes to offer a service that includes repairs over the amount of \$3,300, they should gain a BSA contractor licence and I encourage them to do so.

Mr Gibson: No problem with that. It is a conflict of interest under that.

Mr HINCHLIFFE: The provisions in the bill provide flexibility for inspectors to perform minor repair work, and I seriously doubt that the opposition is proposing that the inspector should not be able to repair a latch. I acknowledge that that was not said, but I also want to thank the member for Gaven for his comments in support of that practicality. It seemed to be a bit in conflict with the remarks that were made by the member for Gympie and the member for Burdekin about this being some sort of fundamental conflict.

With regard to the role of local government in pool safety, I am able to advise the House that the LGAQ supports these reforms. Further, it is a longstanding and traditional responsibility for local government to enforce pool safety regulations. The member for Gaven, and indeed the member for Beaudesert, raised concerns regarding powers of entry. However, again, these powers are similar to those contained in the Fire and Rescue Service Act and I think they are appropriate.

The member for Glass House raised some issues on behalf of his constituent, Mr Wrangell. I have seen Wrangell's submission to the pool safety committee and I will certainly ensure that Mr Wrangell, as well as the member for Glass House, receives a full response to the very detailed and precise issues that he has raised.

I note the concerns of the member for Currumbin that the bill provides too many concessions to the tourism industry. I think it was rather surprising to hear a member representing the Gold Coast saying that, but it is another case of the LNP not supporting the Gold Coast and the Gold Coast tourism industry, particularly in these difficult times. The six-month phase-in period for short-stay occupation is the outcome of consultation with organisations such as the Queensland tourism industry, and the government considers that that phase-in period is appropriate.

The member for Nicklin raised his concern about the regulatory burden that this legislation represented for pool owners. As I have said, there is a cost involved and they are costs that pool owners should bear as part of their responsibility of owning a pool. The member asked why some sort of self-assessment could not be involved. The government believes that the cost of safety fencing and other safety aspects are, as I say, part of the responsibility of owning a pool. That responsibility includes any possible monetary output for a pool safety inspection. This legislation is about the safety of Queensland's children and the government makes absolutely no apology for taking the advice of experts in this regard and keeping the safety of Queensland's children paramount.

This bill implements a comprehensive and effective pool safety standard that will be applicable to every regulated pool in Queensland. It also effectively encourages pool owners to comply with that modern, best practice safety standard. This is exactly the sort of action that Queenslanders need and this government has delivered.

The bill also contains amendments to the Animal Management (Cats and Dogs) Act 2008. Those amendments clarify the act's intention that amstaffs are a separate breed of dog and should not be

regarded as requiring the same keeping and control requirements as restricted dogs. Importantly, the amendment does not compromise community safety as the owners of all dogs, including amstaff owners, will still be held accountable for the behaviour of their pets. Fines of \$2,000 apply if a dog causes fear, and there is a maximum fine of \$30,000 if a dog seriously attacks someone. In order to assist with the identification of dog breeds, the bill also empowers veterinary surgeons, along with the Australian National Kennel Council and its members, to differentiate and certify breeds of dogs. Ultimately, these amendments will be of great assistance to amstaff owners and local governments. I commend the Minister for Local Government and Aboriginal and Torres Strait Islander Partnerships for actively seeking to resolve this matter.

I should also inform honourable members that last night the member for Lockyer stated in the House that the labrador is the breed of dog that most commonly bites humans. I must note for the benefit of the House that the member for Lockyer has since reneged and apologised sincerely. He asked me to ensure that that has been placed on the record. He has checked that information and he was absolutely incorrect. So, on behalf of Bouncer and all the other labradors, I can say that their honour is maintained, including Mr Deputy Speaker's labradors.

I thank all the members of the House for their support of these amendments. The bill also includes an amendment to the Sustainable Planning Act 2009 which will enable local governments to continue publishing material relating to development applications on their websites. A number of local governments publish information under the SPA online and this has become an important tool in the IDAS process. It is widely used by applicants, industry and most particularly the community and facilitates a transparency of the process.

Finally, the bill contains amendments that will amend the Royal National Agricultural and Industrial Association of Queensland Act 1971 to ensure that land that hosts the iconic Queensland Ekka cannot be lost if the RNA experiences an insolvency event. This amendment is particularly pertinent as the RNA is entering into a agreement with Lend Lease (Bowen Hills) Pty Ltd to redevelop the Ekka site. Over the 15-year life of the project the RNA will incur significant debts, including a \$65 million loan from the Queensland Treasury Corporation. Under this bill, only that section of land involved in the deal and not any other part of the Ekka site can be dealt with by creditors or liquidators as property of the RNA in the case of liquidation. Instead, ownership of the land will revert to the state.

I note and thank the member for Gympie for his support for the amendments relating to the RNA. However, I was a bit perturbed by his suggestions—I have looked at *Hansard* and I have been unable to see where he has raised these concerns about the amendment—but in the spirit of the support offered by the member for Gympie and the opposition, I, too, commend the bill to the House.