




Speech By  
**Hon. Mark Bailey**

**MEMBER FOR YEERONGPILLY**

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Record of Proceedings, 9 May 2017

### **WATER LEGISLATION (DAM SAFETY) AMENDMENT BILL**

 **Hon. MC BAILEY** (Yeerongpilly—ALP) (Minister for Main Roads, Road Safety and Ports and Minister for Energy, Biofuels and Water Supply) (6.55 pm), in reply: First of all, I thank all honourable members for their participation in this debate. I will take this opportunity to respond to a number of the issues raised during the debate. Concerns have been raised about the lack of a regulatory impact statement. I can clarify for the benefit of members that this bill is amending existing provisions and it does in fact reduce the regulatory burden. The obligations which have been referred to currently exist in legislation. No additional obligations are being proposed for landholders. Accordingly, I have been reassured by my department that these amendments do not necessitate a regulatory impact statement. I will deal with these in further detail.

It has been suggested that the amendments extend the current regulatory requirements that apply to small farm dams. I can state very clearly that they do not. In fact, the amendments will reduce the number of small farm dams that might otherwise have been referable dams. The existing obligations on these dam owners are usually limited and relate to conditions regarding decommissioning. The amendments will not increase costs. In fact, they will reduce the need for dams assessed to be referable to be failure impact assessed as the owners can accept the regulator's assessment and avoid the need to prepare their own failure impact assessment. I am sure if there were some genuine concern in that regard from the opposition that they would vote against it which they are choosing not to do.

It is a matter for any purchaser of land to conduct their own inquiries about the land and the infrastructure on that land in relation to notice for purchasers. People purchasing properties containing very large dams have the capacity and resources to conduct appropriate due diligence processes and to understand their legal obligations. Also, I note that information about referable dams is available on the Department of Energy and Water Supply website.

In relation to the number of referable dams, the member for Burleigh raised concerns that there are thousands of potential referable dams across the state. My department has undertaken an extensive process to identify referable dams using satellite imagery, plans and visual inspections. Not all of these dams have been captured as they do not meet the definitional requirements under the current provisions. Of the ones that are currently captured, the amendments will ensure that some of these will no longer have to be subject to two regulatory arrangements. Those that are no longer considered to be referable dams will continue to be subject to workplace health and safety requirements.

I note the member for Warrego's comments and agree that water is, of course, essential to farmers and their businesses and that the value of water is a strong motivation for safe management of farm dams. While the bill removes regulatory overlap, a dam that poses an unlikely but high-consequence risk to the general public will still be regulated as a referable dam under the Water Supply Act.

In relation to costs for local government, I can also clarify for the House that the amendments do not significantly increase the costs for local governments. The amendments in respect of emergency action plans require local governments to review those plans—I think it is good that that is required; I

think that is a step forward in terms of it being optional—and support the collaboration between dam owners and local governments to ensure they plan for appropriate notifications and warnings during emergency events. There is nothing that did not demonstrate that to me more clearly than the impact of Cyclone Debbie recently on a large section of our state in terms of the damage that I saw. There is no doubt that preparation, preparation and preparation is critical to us preventing damage, preventing people being injured and preventing fatalities. I certainly see the provisions here in that context.

I note that the Local Government Association of Queensland has identified that any cost of the implementation of the measures in the bill are reasonable. I once again confirm that the amendments do not transfer liability to local governments or to local disaster management groups. I am advised that no liability risk can arise from an obligation to review an emergency action plan and provide advice. The dam safety regulator continues to have responsibility to approve emergency action plans; dam owners continue to have responsibility to operate their dams safely.

The intent of the bill is to reduce regulatory duplication. For example, the bill recognises that the risks from small dams are appropriately managed under the Work Health and Safety Act 2011. However, the amendments ensure that a dam that poses an unlikely but high-consequence risk to the general public will still be regulated as a referable dam. I am comfortable that these changes strike the right balance between reducing the regulatory burden and maintaining dam safety and continuing to protect our community.

In relation to reduced full-supply levels, submissions to the Public Works and Utilities Committee suggested the need to define the term ‘unacceptable risk’. The term is used in relation to the power to reduce the full-supply level of a dam if there is an unacceptable risk that the dam could fail if it operates at the full-supply level stated in the resource’s operations licence. I appreciate that this is a subjective test and in the absence of a definition there is a potential for different interpretations. I will move amendments during consideration in detail soon to define an ‘unacceptable risk’ for this provision.

I will also move amendments to insert a provision into the bill which provides that no compensation is payable because of the operation of the reduced full-supply level provisions contained in the bill. This provision will address concerns raised by dam owners during the committee’s examination of the bill. That provision will also allow dam owners to focus on the safety of the dam as their primary consideration.

In relation to emergency action plans, concerns have been raised about interpretation and implementation of the new provisions for emergency action planning. As I stated in my second reading speech, I will move amendments during consideration in detail to further clarify certain definitions and requirements in relation to emergency action plans. I want to be clear, however, that the provisions must be broad because every referable dam must have an emergency action plan that is applicable to the circumstances of the individual dam to minimise the risk to affected communities should a dam hazard event or emergency event happen. The Department of Energy and Water Supply will publish an updated guideline following passage of the bill which will provide dam owners with detailed guidance on preparing an emergency action plan under the amended provisions.

In relation to signage downstream of dams raised by a range of people in remarkably similar sounding paragraphs, dam owners already understand how to erect appropriate signage on land that they own. They will apply the same considerations and care when erecting signs on public land downstream of a dam or weir as they do on their own land. They have the opportunity to seek the advice of a relevant local government if necessary. I am somewhat surprised that those opposite seek to have more prescription in the legislation on this topic. I am of the view that it is not necessary to address the details about the size or wording of signs in the legislation. Some people might even call that red tape.

In relation to emergency management planning, in summary, the emergency action plan framework was inserted into the Water Supply (Safety and Reliability) Act 2008 to implement dam safety and flood mitigation recommendations by the Queensland Floods Commission of Inquiry. This framework has improved emergency management planning and community safety. Emergency management is an enormously challenging field and requires continuous improvement. The bill responds to the findings and recommendations of the Inspector-General Emergency Management to further improve emergency management planning and integrate dam safety with disaster management. The bill will also provide dam owners with an appropriate power to reduce the full-supply level to manage the safety of their dam and, by extension, the safety of the downstream community.

The bill will reduce regulatory duplication for owners of small dams which are covered, for example, by the Work Health and Safety Act 2011. This will reduce the burden on the owners of the dams, including small farm dams, while maintaining dam safety and continuing to protect the community. The bill will also introduce a new failure impact assessment process for an existing dam to become a referable dam. The new streamlined process will reduce the cost and burden for existing dam owners which are currently caught by the framework.

I would like to thank my departmental and ministerial staff who have worked hard on this bill in an effort to improve community safety. I thank the members of the parliamentary Public Works and Utilities Committee and its secretariat for their consideration of the bill as well as the nine organisations that made submissions to the inquiry and attended the public hearing here in Brisbane. I also thank those organisations who have taken the time to provide valuable contributions such as the Local Government Association of Queensland, the Queensland Farmers' Federation and Cotton Australia. I commend the bill to the House.