




Speech By  
**Rob Molhoek**

**MEMBER FOR SOUTHPORT**

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

 **Mr MOLHOEK** (Southport—LNP) (4.41 pm): I rise to speak to the Water Legislation (Dam Safety) Amendment Bill 2016. I want to say up-front that the LNP will not be opposing this legislation. The LNP members of the committee supported the underlying principles and intent of the amendments to improve the integration of dam safety and disaster management, to improve the way dam owners manage dam safety and to simplify the process and reduce regulatory burden.

I want to pick up on the comments of the chairman in regard to the signage conditions. The LNP members raised four or five issues. One of them was simply a question of the departmental officers—if they could be a little more prescriptive about the signage that is required. Across the state there are specific signage requirements—on our highways and on our major roads. We see signage around venues providing information. We see signage at parking areas. We also see signage on gas pipelines and water mains. The simple questions were as follows. If a referable dam presents as a hazard downstream, where should the signs go? How many signs should there be? Should they be set three metres apart or 10 metres apart? Who is responsible for making sure that the signage is kept in place? What size should the signs be? Is there some standard for these signs?

Some other concerns arose out of issues relating to approval and access rights. If there is a need for warning signs downstream from a referable dam and those signs are not to be on the property of the owner of the dam, what right does the owner of the dam have to access properties downstream? Even the Gold Coast City Council raised this concern in its submission. It said—

From a local government perspective, it is not desirable that dam owners be given exemption from liaising with the local government prior to placing signs on public land that the local government is responsible for.

This is another potential issue. A dam owner may have to seek local government approval for the placement of signage downstream when the land belongs to a local government. All of us know that councils are notoriously good at regulating all sorts of signage. We simply ask that there be further clarification or some as-of-right provisions made so that the requirement to place signage and warning signs did not end up being a debacle with a lack of clarity around what, when, where, how many, access rights and any ongoing maintenance obligations of the dam owner. I accept the chair's comments that it is the responsibility of the dam owner, but I think that it is also the responsibility of the government to have clear regulation and policy so that the dam owner knows exactly what he is required to undertake or provide.

The LNP members expressed some concerns in committee discussions and wanted some clarification—and I am pleased to say that we received a response from the department—on the issue of liability. A requirement in this legislation is that local disaster management committees and councils become a referral agency in respect of the preparation of emergency action plans and also have some obligation in respect of identifying potential risks within their areas. Given that some local disaster management committees are often made up of local councillors and volunteers from the Red Cross, the local ambulance service, or other government departments, a local police representative, or even

members of the SES in some communities where there is a significant presence, the question was simply: if local disaster management committees or councils become a referral agency, will they in some way end up being liable for the referrals that they make in respect of those emergency action plans if at some point there is a failure and, as a result of that failure, there is a loss of life or significant injury? I was pleased to read in the response from the department that the department would still be the primary assessor and would be fundamentally responsible for the final decision as to whether the emergency action plan was appropriate.

It is interesting to note that, currently, 106 referable dams have been identified. However, I note in the response from the department that a further 312 dams were in the final stages of engineering investigation. Those 312 dams were identified out of several thousands of water bodies on which the department claimed to have done initial assessments. The department reported further that, of those 312 dams, only 191 dams may pose a risk to at least one household. Further, of those 191 dams assessed as possibly having population at risk, the department believed that as few as 102 of those dams may need further review. It was pleasing to see that the departmental officers have, in their words, had boots on the ground on many properties across the state. They are certainly undertaking a very thorough and intense review to ensure that the objects of this legislation and the legislation preceding it fulfil the requirement to consider whether more than one or two people downstream are at risk.

I want to touch on comments that the committee received from Cotton Australia and the Queensland Farmers' Federation, which represent a significant number of bodies across the state. One of their concerns was whether this legislation would impose significant additional cost on property owners. If their dam was identified as one that may need to be reviewed, who was up for the cost of that engineering assessment and then the subsequent preparation of the emergency action plans?

We heard from the Queensland Farmers' Federation that the proposed changes may have financial impacts on property owners. The department itself has acknowledged a minimum indicative costing of around \$5,000 for producing an emergency action plan, not including ongoing costs associated with maintaining the currency of such plans. It is quite right that the Queensland Farmers' Federation would identify that as a concern. I am satisfied for the most part that both the minister and the department have sought to address those concerns. Nonetheless, it was an important issue to flesh out in committee because, in case anyone has missed it, across Queensland there are many farmers and graziers who have dams on their properties who are doing it pretty tough as a result of the drought. I suggest that those dams on properties that are in significant drought may not pose much of a risk at all given that there is probably little, if any, water in many of them. I enjoyed the response from Cotton Australia. I want to quote from the transcript, which I can assure the House is a public document. I have been there previously and realised that I perhaps was quoting from something I should not be and so have double-checked.

**Mr Costigan** interjected.

**Mr MOLHOEK:** I take the interjection from the member for Whitsunday. I did go to the library to check that it was a public document. We heard from Mr Michael Murray, the general manager of operations at Cotton Australia. He said—

Normally we would come here and really welcome this legislation. It does go a long way to reducing red tape.

I certainly have to commend the department on its genuine desire to try to simplify the process.

The idea of not doubling up where OH&S is concerned is a very positive move; however, our concern is that the red tape was unnecessary in the first place and there is room for further reduction.

He then went on to say that his colleague, Mr Graham Clapham, who was an irrigator from the Darling Downs, would explain a little bit more about the type of dam. We had a fairly insightful presentation on earth dams and turkey nests and what little risk that they in fact pose because of the way they typically breach, if they breach at all. Mr Murray continued—

... there has not been a single death from a farm dam failure in Australia. We are regulating something that is an extremely low risk to human life. Graham will point out that it is not as if there is no risk of these dams failing—and sometimes they do fail—but they fail over quite an extended period of time.

I love this quote from Mr Murray. He said—

Nobody is going to make a horror movie out of a farm dam failing. It does not just burst.

The very nature of these dams, as Graham will explain, is that they tend to be built on flat land. They are described variously as a ring tank or a turkey nest dam, they are not a dam wall across a gully or a valley or anything like that. It is quite different to what you might see in your general perception of a dam.

It is important that those distinctions be made and recognised. I am grateful for the education that we were afforded as a committee by Mr Michael Murray and Mr Graham Clapham on that occasion.

The potential cost to farmers certainly had a significant airing in the committee. While there were many undertakings from the department given to us, it is still a concern of both the Queensland Farmers' Federation and Cotton Australia. It is not just the actual physical cost. I am sure members of the House can all relate to that feeling when you receive a notification in the mail from a government department or from a lawyer or from some other organisation suggesting that you need to answer to something or that you need to show cause or that you need to provide information. For many people the process of having to respond can be quite stressful.

I think it is fair to say that the heartbeat of those of us on this side of the House was that we were concerned that the requirements were clear. We were very concerned that the interests of farmers and their families were considered. At a time when there has been so much pressure on those on the land we felt that it was important to make sure that this legislation did not impose unfair or unnecessary costs upon those on the land. We heard further from Cotton Australia and the Queensland Farmers' Federation. They said that, while the initial cost might be as much as \$5,000, there is the potential on occasions for the cost to accelerate to as much as \$30,000 or \$40,000.

I would also like to point out that, in terms of the referable dams, we did ask the department to give us a breakdown of the list of referable dams that were already in existence. It is comforting for the House to understand that many of these are operated by government departments or government owned corporations. In fact, 22 of the current referable dams belong to SunWater; 26 are under the control of Seqwater; there are three under the control of the Department of Energy and Water Supply; there are two that belong to statutory authorities, as in water boards; there are six that belong to other government owned corporations—for example, electricity companies; there are 32 local government referable dams; there are eight mining company dams; there are four that belong to primary producers; and three others that are privately owned. At this point, subject to what the department discover through that ongoing process of identifying referable dams, there are only 106, with potentially, based on the department's report, another 89 across the state.

If I could go back to the issue of liability, it may not seem a matter of great concern, but I raised it having been a councillor with Gold Coast City Council. Time and time again we have experienced instances where those on the other side of the House, through legislative changes, have unintentionally, I am sure, on many occasions effectively shifted more costs onto local government. That was one of the issues that I was concerned about in considering the submission from local government and these disaster management committees. While they may be a referral agency, and while the department has given an undertaking that they will not be liable for the advice they give and that the department will be the final regulatory body to sign off on emergency action plans, the fact is that even being a referral agency there is more cost for local government.

No doubt some councils will have to tie up significant resources in responding to some of these reviews of referable dams. As always, that is an ongoing concern that I have and I think all of us in the House should have because the last thing we need to be doing is encouraging cost shifting, the last thing we should be wanting to do is impose a greater onus or burden of work on people who are volunteering to be on disaster management committees. We understand that it is necessary. We understand that it is important to get this right, but to go back to the words of Michael Murray from Cotton Australia, there has never been a single known death in Australia from a farm dam failure. While I understand the need for a rigorous review of these dams, it continues to be my concern that we do not impose unnecessary and unfair cost burdens on farmers who are already doing it tough.