



28<sup>th</sup> October 2011

The Premier of NSW, The Honourable Mr M. P. O'Farrell  
The Opposition Leader, The Honourable Mr J Robertson  
To all NSW Ministers, Shadow Ministers and Members of Parliament

Dear Premier and Sirs/Ma'am

**RE: JAISE'S LAW – Drowning Tragedy**

The Board of Directors, Mrs Kelly Taylor, Members and Supporters of Hannah's Foundation write to you in full support of legislative changes to the Swimming Pool Act and the Residential Tenancies Act of NSW for **Jaise's Law**.

Hannah's Foundation, Drowning prevention, awareness and support is a fully endorsed and registered charity supporting all Australian Families who have suffered a water tragedy. Currently we have 479 members and over 9000 flood victims being supported through counselling, peer support services, medical equipment funding and Funeral bursaries.

In September 2010 a little boy named Jaise Taylor was visiting relatives with his mother and two sisters in Port Stephens from Qld. Jaise was only two years of age when he lost his beautiful life to drowning. He accessed a pool by a non compliant pool fence at the residence of his relatives which was rented. The pool did not meet the requirements of the Australian Standards or that of current NSW Legislation. It was also not registered with the local council with building approval.

"Why did my little Jaise have to die?" asks his mother Kelly Taylor.

Hannah's Foundation in 2009 submitted to the NSW Government a report and copy of our QLD submission for Pool Safety requesting changes to both the Swimming Pool Act and Residential Tenancies Act and yet to date nothing has been done to combat childhood drownings in Rental Properties.

Statistics held by the Foundation and presented to the NSW Coroners Court in December 2009 states that at that time over 87.76% of Drownings across Australia were occurring in rental properties. Current to date that statistic has increased in NSW to over 91.67%. Changes are needed immediately to save lives of toddlers in back yard pools.

Jaise Taylor was scheduled to have his inquest heard by Deputy State Coroner Paul MacMahon and in August this inquest was removed from the Court list and Mrs Taylor was not advised until Hannah's Foundation contacted the Coroner's Office in September, the day before her

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son's anniversary. The inquest was removed due to apparent changes to the Swimming Pools Act however the changes to the Act do not have any relevance to Jaise's death.

Jaise's Law is important to safety, children's lives and the industry of rental properties and its agents.

Hannah's Foundation with the support of Mrs Kelly Taylor request that your government urgently review the following legislative changes to form what should be known as **Jaise's Law**.

### **Amendments to Legislation:**

#### **Residential Tenancies Act 2010**

1. That the NSW Parliament introduce a legislative change to **Division 5, Section 62** to include Swimming Pools/Spas as an urgent and immediate emergency repair.  
*(Comment: In the circumstance that Landlords/Agents do not fix the pool and council has ordered a non compliance certificate on the property that this action will also give the tenant sufficient grounds under the Act to terminate their lease and without financial penalty.)*
2. That the Act be change to include a Swimming Pool Safety Compliance Certificate as a requirement prior to lease to tenant.
3. That the Act include that any exemptions for the Swimming Pool/Spa of the Rental Property be removed for new tenants.
4. That all rental properties have FOUR SIDED FENCING and that all pools/spas be compliant to Australian Standards 1926.1.
5. Specific penalties for non compliance on behalf of agents/landlords.

#### **Swimming Pools Act 1992**

1. The removal of self closing doors to form part of barrier,
2. the adoption of the Australian Standards 1926.1, IN FULL
3. the adoption of legislation mirroring Qld Development Code, Mandatory Provisions 3.4

*(comment: In many cases QDC MP3.4 has expanded to provide greater protection than that listed in Australian Standards, example; non climbable zones in the upper 900mm quadrant with provisions that a child cannot gain access. The use of canals/rivers/lakes/streams can form part of barrier)*

4. that all pools have FOUR SIDED fencing,
5. Development of a State wide Pool Register
6. Development of a Swimming Pool Safety Inspector training course
7. The introduction of a Mandatory inspection regime triggered by sale/lease of properties in the first instance for shared/non shared pools
  - a. Shared pools (accommodation complex, motels, hotels) every 12 months
  - b. Non shared pools, stand alone residential if not sold/lease every two years
  - c. Resort pools (swimming pool management plans) every 12 months
8. Mandatory reporting of immersion events of children

The above changes will no doubt save lives, the lives of young Australians. Many of them living in Rental properties in NSW. Currently statistical information held by Hannah's Foundation as at 1<sup>st</sup> October 2011, over 87% of rental properties in Qld alone are failing their first pool inspection. These statistics are unavailable in NSW because there is currently no regime on pool inspections and currently there is no register state wide register detailing the number of pools and their compliance. The highest amount of Hannah's Foundation members in NSW reside in the areas confined to the Western Sydney, South West Sydney and the Blue Mountains regions.

Hannah's Foundation would also like to encourage the NSW State Government to proactively advertise changes to the Swimming Pools Act and educate the public in an ongoing campaign that is not just on a seasonal basis. ***Drowning Prevention is all year around not only just in summer or when a tragedy occurs.***

The circumstance of childhood drownings is preventable with supervision and compliant barriers and our members who have tragically experienced a break down in supervision and at the same time had non compliant barriers all plead with you that your Government take affirmative action.

The Qld Government announced a review of Pool Fencing laws on in December 2008 with that legislation introduced to Parliament in 2009 with the first stage implemented 1<sup>st</sup> December 2009 and the final elements on the 1<sup>st</sup> December 2010.

Since that time, there has been a substantial increase through advertising and awareness which has resulted in a continual reductions over the last two years in toddler immersions and drownings in QLD. This legislation whilst not 'popular' has been embraced by those within the community and in excess of 290,000 pools currently are registered and 35,000 pool safety certificates issued by over 1200 licensed Pool Safety Inspectors.

It is anticipated that through the introduction of this legislation of Jaise's Law that there will be some costs to those members of the community who have pools.

Change does not come without cost and this personal appeal to those Members of the New South Wales State Parliament is to support legislative changes which will mean less lives have been tragically lost or affected. A loss does not only affects the family but also friends, work colleagues and Emergency Services workers and Hospitals.

By supporting the introduction of Jaise's Law in NSW as a member elected by the community, for the community, you will be able to stand proudly before your community and say "I have put my hand up for drowning prevention and I believe that these changes will save lives and benefit the community."

Hannah's Foundation, Kelly Taylor and its members look forward to your response in the immediate future. Our contact details are (07) 5465 2000 and email: katherine@hannahsfoundation.org.au

### **Kind Regards**



Andrew Plint  
**Founding Director**



Katherine Plint  
**Executive Officer & Founder**  
**Coronial Research Officer**  
**National Families Support Coordinator**