



Speech By  
**Dr Christian Rowan**

**MEMBER FOR MOGGILL**

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**GUARDIAN AND ADMINISTRATION AND OTHER LEGISLATION AMENDMENT  
BILL**

 **Dr ROWAN** (Moggill—LNP) (3.08 pm): I rise to make a contribution as the LNP's shadow minister for communities, disability services and seniors to the Guardianship and Administration and Other Legislation Amendment Bill 2018. It would be difficult to find anyone in this House who has not in some capacity had to deal with issues of guardianship, be it on a personal level on behalf of family or friends or even as elected representatives where from time to time constituents reach out to us seeking assistance in navigating a system during what is often a challenging time.

While we on this side will not be opposing the bill before us today, I would however like to use this opportunity to place on record some of the valid concerns that have been raised by stakeholders. The hallmark of any civilised society, particularly one as enriched as our own here in Queensland and Australia, is the way in which that society looks after those who cannot look after themselves. One such way we strive to help such citizens is through our guardianship system. As summarised by this bill's explanatory notes, in Queensland our guardianship system—

... provides a scheme for individuals to be appointed to make personal, health and financial decisions on behalf of adults who no longer have capacity to make decisions about certain matters themselves. It also provides a scheme where adults can plan ahead and appoint individuals of their choice to make personal, health and financial decisions and give directions about their future health care.

At a time when Australia's population continues to age and when we see an estimated 250 Australians being diagnosed with dementia each and every day, now more than ever it is important to ensure our guardianship system is best serving those constituents who need it the most.

At this point, as the LNP's shadow minister for seniors, I would like to note that the bill will progress a number of actions arising from the Queensland government's response to the report of the 2015 inquiry into the adequacy of existing financial protections for Queensland's seniors undertaken by the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee. That being said, I would also like to note the history of this bill and the sheer length of time it has taken for this Labor government to implement a single recommendation of this important reform. In 2010 the Queensland Law Reform Commission handed to the then Bligh Labor government its report into its comprehensive five-year review of Queensland's guardianship laws. Contained in that report was some 317 recommendations—not a single one of which was implemented by the then Bligh Labor government, of which the Premier was a senior minister.

It was not until the election of the LNP government where meaningful action in the interests of Queenslanders with impaired capacity to make decisions for themselves finally took place. Half of the work on implementing the recommendations had already been done by the former Liberal National Party government, which released the then government's response to the Law Reform Commission. The former LNP government also enacted a number of recommendations, including retaining and strengthening the independence of the Public Advocate and improving the ability of the Public Advocate to effectively perform its functions. I am proud to say it was also the former Liberal National Party government that reintroduced the vital role of the Public Advocate.

Having attended the recent round table on the health of people with intellectual disability, along with the deputy chair of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee, the member for Caloundra, Mark McArdle MP, I have to take this opportunity to acknowledge the work of the Public Advocate, particularly the published 2016 report *Upholding the right to life and health: a review of the deaths in care of people with disability in Queensland*. Whilst the Queensland Labor government took three years to finalise its action plan response, I am surprised that hospital and health services disability service plans, whilst being developed, are not actually at this point going to be mandatory.

It is now 2019 and Queenslanders have every right to question why another Labor government, the Palaszczuk Labor government, just like the Bligh government before it, has dragged its heels on such issues. This Labor government squandered more than three years before it even introduced any of the Queensland Law Reform Commission's recommendations. Even then, this bill does not implement all of the 317 recommendations. It must be asked what the Attorney-General and this Labor government intend to do on the other recommendations. Whilst it is encouraging that finally this government has turned its attention to this important reform, genuine concerns stemming from the implementation of this bill remain which this Labor government must address.

The Public Advocate has raised concerns stemming from recommendation 14-14 of the Queensland Law Reform Commission review to provide clarity around when QCAT may make an order removing the Public Guardian if another appropriate person exists. In particular, it was noted that the bill specifically does not implement recommendations 14-13 and 14-15 to provide a similar process for the Public Trustee. In addition, concerns have been raised regarding the bill's provision that will see guidelines developed to assist with the assessment of capacity, yet no date has been specified as to when the guidelines will be prepared. In its submission, the Public Advocate raised concerns that the general and healthcare principles are difficult to understand and access, stating—

I am aware that there has been a suggestion that the department could produce a version of the ... principles after the legislation has been passed. That would ... require the department to be giving an interpretation of legislation, which is tantamount to giving legal advice and that is not what government agencies do.

With my remaining time, I would like to briefly touch on one other issue arising from this legislation and debate—that is, the Queensland Civil and Administrative Tribunal's handling of guardianship matters and the overall operation of the Public Trustee. Last year's QCAT annual report revealed that the tribunal was severely under-resourced and overworked, with increases in the complexity of the matters lodged coupled with QCAT's limited resources continuing to put pressure on QCAT's ability to meet its benchmarks for annual clearance rates. In particular, the guardianship list has had the most significant volume increase in lodgements over the last year, which is having a detrimental impact on QCAT's overall clearance rates. In fact guardianship matters have increased 21.5 per cent over the past four years, from over 10,400 to nearly 12,700 matters. The Attorney-General and this Labor government cannot continue to underfund and under-resource such an important institution, particularly when we ask it to handle such delicate and life-altering decisions concerning guardianship.

I would like to place on record my appreciation to the Queensland Law Reform Commission for the work they have done that has led to this reform, along with the work done by the members of the Legal Affairs and Community Safety Committee, including my Liberal National Party colleagues, the members for Southern Downs and Lockyer, and all stakeholders who contributed to the committee's report.

In conclusion, I also say this from a personal perspective. My own father, who is now in residential aged care and who has evidence of cognitive impairment and probable dementia, is just one Queenslanders who will be a beneficiary from a robust system and framework of guardianship legislation and administration. There are further enhancements within this bill. I would also like to take this opportunity to acknowledge my sister, Edwina Rowan, a partner in the law firm Charltons Lawyers in Bundaberg, for her assistance and ongoing compassionate care to our father given his difficult health circumstances.

Finally, can I say that it was an honour to attend recently the Queensland Law Society Annual Legal Profession Dinner and Awards and see Edwina Rowan receive the Queensland Law Society's Agnes McWhinney Award for 2019 for her professional advocacy, championing fair access to justice and working on behalf of children in the justice system, as well as victims of domestic violence. It was a pleasure to join both the shadow Attorney-General, the member for Toowoomba South, and the Attorney-General on the evening. I certainly acknowledge their contributions on the night as well.