




Speech By
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DISABILITY SERVICES AND OTHER LEGISLATION (NDIS) AMENDMENT BILL

 **Dr ROWAN** (Moggill—LNP) (11.29 am): As the Liberal National Party shadow minister for communities and shadow minister for disability services and seniors, I rise to address the Disability Services and Other Legislation (NDIS) Amendment Bill 2019. I confirm that the Liberal National Party will not be opposing this important piece of legislation in Queensland. On 28 March 2019, the Minister for Communities and Minister for Disability Services and Seniors, the Hon. Coralee O'Rourke, introduced this legislation into the Queensland parliament. It was subsequently referred to the Education, Employment and Small Business Committee for detailed consideration. With the parliamentary committee having delivered its report, the Palaszczuk Labor government is now seeking the passage of this legislation. I note, however, that this is the last sitting week left in which to pass this legislation before the urgent and critical deadline of 1 July 2019, when the National Disability Insurance Scheme will be fully operational here in Queensland. This Labor government has had literally years to get ready for the full transition by 1 July 2019. Therefore, leaving this to the last minute is simply unacceptable and I will be expanding further on this shortly.

As anyone in the disability sector—be it service providers, carers, family members or, most importantly, patients—knows, the National Disability Insurance Scheme presents the most significant and fundamental shift this nation has seen in terms of how services for people with a disability are both funded and provided. Commencing in 2010, the Productivity Commission undertook a public inquiry into the establishment of a long-term disability care and support scheme. One of the key findings from the commission was how the existing system of disability support is 'underfunded, unfair, fragmented, and inefficient, and gives people with a disability little choice and no certainty of access to appropriate supports'. Hence one of the key aims underpinning the establishment of the National Disability Insurance Scheme, as articulated in the bill's explanatory notes, has been to enable participants to have greater choice and control in the pursuit of their goals and in the planning and delivery of essential supports.

I am proud to say that from day one the Liberal National Party has been steadfast in providing its unequivocal bipartisan support for the National Disability Insurance Scheme. Indeed, the legislation before us today fundamentally builds upon the foundations laid by the former Newman Liberal National Party government to deliver this fundamental shift in both philosophy and service delivery for Queenslanders living with a disability. To that end, I acknowledge the hard work and dedication of the former Liberal National Party member for Aspley, Tracy Davis. As the minister for communities, child safety and disability services in the previous Newman Liberal National Party government, the former member for Aspley was instrumental in ensuring that the fundamental groundwork was laid for Queensland's transition to and long-term implementation of the National Disability Insurance Scheme here in Queensland. It was the former Liberal National Party government that signed Queensland onto the NDIS in 2013, including making an \$868 million commitment as part of the NDIS implementation.

On a personal note, I know just now passionate former minister Davis was about delivering for Queenslanders with a disability. For the former member for Aspley, it was very important that, as a government, we provided the best framework so that eligible Queenslanders with a disability could

self-direct their funding and provide greater flexibility in the lead-up to the full NDIS implementation. I thank Tracy Davis not only for her sheer determination in ensuring the best outcomes for Queenslanders living with a disability but also for the more positive reforms she ushered in during her time as minister for communities, child safety and disability services.

To examine the greater detail of this legislation, the explanatory notes state that the purpose of the bill is to—

1. ensure that Queensland has made all urgent and critical amendments required to support the commencement of the operation of the NDIS Commission from 1 July 2019;
2. ensure that the DSA operates in conjunction with the Commonwealth legislative framework to provide a strong quality and safeguards framework, in particular in relation to the authorisation of restrictive practices and worker screening;
3. ensure that existing quality and safeguards under the DSA continue to apply to disability services currently regulated under the DSA that will be outside of the NDIS;
4. strengthen the operation of Queensland's disability worker screening system (the yellow card system) during the transition to new NDIS worker screening;
5. amend the Coroners Act to ensure that the deaths of certain NDIS participants must continue to be reported to the State Coroner;
6. amend the PGA to ensure that community visitors (adult) and (child) must continue to visit visitable sites where certain NDIS participants are in order to protect the participants' rights and interests; and
7. enable appropriate information sharing to occur with the NDIS Commission to assist with the performance of the NDIS commissioner's functions under the NDIS Act.

As the current Queensland Labor minister outlined in her introductory speech, in order for Queensland to become a participatory jurisdiction from 1 July 2019 it is necessary to ensure that Queensland has the essential legislative framework in place to support the operation of the NDIS Quality and Safeguards Commission. I note that, during the transition to the NDIS, Queensland's quality and safeguards will continue to apply to NDIS registered providers. With the passage of this legislation, the responsibility for the oversight of NDIS registered providers will transfer to the NDIS Quality and Safeguards Commission from 1 July 2019. Importantly, it must be noted that Queensland will continue to remain responsible for implementing aspects of the NDIS Quality and Safeguarding Framework, including administering a worker screening system, authorising the use of restrictive practices and operating a community visitor function.

I note the committee's examination of the bill. I place on record my thanks to all committee members, including my LNP colleagues the member for Pumicestone and the member for Currumbin, for their work, especially given the short time frame provided. I also note that during the committee hearings there was broad stakeholder support for the legislation. I specifically thank the six organisations that took the time to make a submission to the committee and contributed to the public hearing: the Office of the Public Guardian, People with Disability Australia, Queenslanders with Disability Network, Queensland Advocacy Inc., the Office of the Public Advocate and the AEIOU Foundation.

However, at this point I believe it is worth reflecting on the fact that, for a bill that affects an entire sector comprising some 90,000 eligible participants for the NDIS, only a handful of submissions were received. In reflecting on this, during the public hearing of 29 April this year Ms Elizabeth Bianchi, the Executive Director of Legal Policy and Legislation from the Department of Communities, Disability Services and Seniors, said—

One of the reasons we are considering for why there may be a lower number of submissions is that the bill is quite technical in nature.

She later stated—

It is fairly technical in its approach and it is really about ensuring that one legislative framework lines up with another one and that they do not bump into one another.

While I can certainly appreciate the technical nature of this legislation and the fact that there was, on the whole, broad support from stakeholders who submitted to the committee, nevertheless I believe that the low number of submissions is of some concern and is even evidence of—as expressed by others in this sector—potential poor communication by the Palaszczuk Labor government contributing to a transition in Queensland that sometimes continues to be referred to as confusing and chaotic.

Whilst acknowledging the broad stakeholder support for the bill, it must be said that two key issues were consistently raised across stakeholder submissions. A key change proposed in the bill relates to the definitions of 'visitable sites' and 'death in care', that is, places where community visitors can visit and places where if the death of a person occurs it is reported to the Queensland Police Service or the state Coroner. By way of background, to support the initial transition to the National Disability Insurance Scheme in 2016, amendments were made that significantly expanded the definition of 'death

in care' with respect to NDIS participants, effectively including any NDIS participant living in a residential service. The amendments contained within the bill will see a narrowing of this definition, limiting it to the death of an NDIS participant not living in a private dwelling or an aged-care facility and receiving or entitled to receive a relevant class of supports from a registered NDIS provider. Whilst acknowledging, as per the explanatory notes, that such a narrowing of the definition is necessary in order to be consistent with the original scope of coronial jurisdiction for deaths in care of people with disability in that it is focused on those people in receipt of high levels of support and care, nevertheless the stakeholders—those at the forefront of our disability sector—have expressed their concerns.

Queensland Advocacy Inc. and Queenslanders with Disability Network in their respective submissions made clear their concerns with regard to the narrowing of this definition and that they consider the exclusion of deaths in private dwellings or aged-care facilities as not being appropriate and that these deaths should remain encompassed in this jurisdiction. It was further put to the parliamentary committee that all deaths of persons with disability in aged-care facilities should be covered, particularly having regard to the significant number of young people with disability who live in aged-care facilities whose primary disability support needs are often overlooked and not met.

Further concerns have been raised by the Public Advocate that, as the NDIS does not in its view have strong working definitions for what is referred to as the 'relevant class of supports' in the definition of a death in care, potential issues may arise and effectively leave the class of supports open to interpretation. For its part, the parliamentary committee in its report noted these stakeholder concerns regarding the proposed definition of 'death in care' and acknowledged the potential confusion that could arise by service providers unsure of when a death must be reported to the coroner in Queensland. On this issue the committee concluded—

The committee sees value in continuing consultation and education with service providers in the disability sector about when a death is a reportable *death in care* under the Coroners Act.

I believe for the benefit not just of those stakeholders but of the sector at large it would be appreciated if the minister could articulate how she intends to address these concerns and ensure there is sufficient ongoing consultation and education to ensure providers are aware of the change in definitions and what that entails.

The other issue widely canvassed by stakeholders that I wish to note in my contribution today has been that of restrictive practices. As set out in part 6 of the Disability Services Act 2006—

restrictive practice means any of the following practices used to respond to the behaviour of an adult with an intellectual or cognitive disability that causes harm to the adult or others—

- (a) containing or secluding the adult;
- (b) using chemical, mechanical or physical restraint on the adult;
- (c) restricting access of the adult.

I note that, through their respective submissions, Queensland Advocacy Inc., Queenslanders with Disability Network and People with Disability Australia all oppose state-specific restrictive practices and broadly advocate for the elimination of restrictive practices altogether. I do, however, note that support is there in the sector for a consistent national framework that again aims to eliminate the use of restrictive practices. However, it has been agreed that the Commonwealth, states and territories will regulate the requirements for NDIS providers who use restrictive practices until such time as a nationally consistent approach can be developed.

As I conclude my contribution today, I would like to reflect on the significance of this scheme and the importance of getting it right as we approach the deadline of 1 July 2019. For years now, thousands of Queenslanders, their loved ones, and their service and support providers have had to contend with a transition to the National Disability Insurance Scheme that, under the stewardship of this Labor government, has sadly been at times somewhat suboptimal. That is simply a fact.

It is a fact that Labor only signed the NDIS bilateral agreement after significant and inexcusable delays. Were it not for the sustained pressure from the Liberal National Party, Queensland's transition to the NDIS would have been at significant risk altogether. It is a fact that the Queensland Audit Office last year found that fewer than 60 per cent of all people eligible for the NDIS in Queensland were likely to be in the program by the time it reaches its full rollout. It is also a fact that Queensland is locked in to pay its full \$2 billion per year commitment regardless.

In a related area, it is unfortunately a fact that, under this Labor government, there was a significant decision to tell the families of 38 residents at the Halwyn Centre at Red Hill in November last year that it would be forcing these residents out. There was widespread concern at the time, but I know that there is relief that the Labor government has reversed its original decision.

It is a fact that, at the metaphorical 10 minutes to midnight, it is only now that this Labor government is bringing this legislation before the parliament—legislation that is urgent and critical. The minister's introductory speech, the explanatory notes and even the committee's report are all littered with the words 'urgent' and 'critical' amendments. Whilst it may indeed be the case that the legislation is urgent and critical, it is simply not good enough that the Labor government saw fit to leave it until the last minute. It is yet further evidence of a Labor government that essentially has its priorities all wrong. In contrast, the Liberal National Party remains steadfast in its commitment to supporting Queenslanders with a disability and that includes holding Labor to account for its rollout of the NDIS in Queensland, particularly as we approach 1 July 2019.

As the Liberal National Party's shadow minister for communities, disability services and seniors, I have had, and continue to have, the distinct pleasure of visiting and assisting some truly inspiring disability service providers, individuals and organisations across this great state. I have been fortunate to see firsthand the incredible work being done by groups such as the Endeavour Foundation, Queenslanders with Disability Network, the National Disability and Carer Alliance and the Queensland Disability Advisory Council, just to name a few, as they help Queenslanders prepare and transition to the full implementation of the National Disability Insurance Scheme. That is not to mention the amazing work being done regularly by disability support groups in my own electorate including Help Enterprises and the McIntyre Centre Riding for Disabled.

There is no question that we are reaching a crucial time in our state's transition and participation as part of the National Disability Insurance Scheme. It is as exciting as it is transformative. However, as we reach such a crucial milestone, it is incumbent upon the Palaszczuk Labor government to show greater care and diligence in its rollout and implementation so that Queenslanders of all abilities receive the supports they deserve.

In conclusion, I acknowledge the amendments as foreshadowed to be moved during consideration in detail by the minister. I thank the minister and her department for the opportunity to receive a briefing on those amendments. The Liberal National Party supports the intent of those amendments that will be moved later today.