Speech By

# Dr Christian Rowan

## MEMBER FOR MOGGILL

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## QUEENSLAND COMPETITION AUTHORITY AMENDMENT BILL

**Dr ROWAN** (Moggill—LNP) (11.42 am): I rise today to address the Queensland Competition Authority Amendment Bill 2018 as this legislation is very important to Queensland's economy. The key objectives of this bill are to, firstly, amend the criteria for Queensland's declared infrastructure third-party access to reflect changes being made to the national access regime; secondly, ensure Queensland's regime continues to be easily understood and address the problems of a natural monopoly in markets for infrastructure services; and, thirdly, introduce additional accountability and transparency to assist in streamlining the processes in relation to access undertakings.

Queensland's third-party access regime is administered by the state's independent economic regulator, the Queensland Competition Authority. Queensland's third-party access regime provides an avenue to seek access to services provided by significant monopoly infrastructure facilities owned or controlled by others. These are facilities that cannot be economically duplicated. Such services include the use of infrastructure such as rail tracks, port terminals and channels. Three services that are currently declared under the regimes include the rail transport services provided by Aurizon Network's Central Queensland coal network, the coal-handling services of the Dalrymple Bay Coal Terminal and the rail transport services provided by Queensland Rail's intrastate passenger and freight network.

We would not have to worry about private companies taking advantage of monopoly infrastructure if the Labor Party had not sold off Queensland's assets. Two of the declared pieces of infrastructure falling under this legislation were sold off by the Labor Party that those members opposite belong to. Specifically, Aurizon's Central Queensland coal network, then under QR National, was sold in 2011 by the Bligh Labor government and the Dalrymple Bay Coal Terminal was sold in 2001 by the Beattie Labor government.

Aurizon and Dalrymple Bay have raised concerns about business certainty and would like their declarations extended. I would say to the Queensland Treasurer, the member for South Brisbane, that she should declare what the Palaszczuk government's plans are to give some certainty to these companies operating regulated infrastructure. The Palaszczuk Labor government needs to guarantee that a pricing determination ensures that these assets, particularly the Central Queensland coal rail network, is funded well enough to provide adequate maintenance works.

Under the current requirements a service may only be declared if the following five access criteria are met: (a) access or increased access to the service would promote a material increase in competition in at least one market other than the market for the service; (b) it would be uneconomical to duplicate the infrastructure for the service; (c) the infrastructure for the service is significant having regard to its size or importance to Queensland's economy; (d) access or increased access to the service can be provided safety; and (e) access or increased access to the service would not be contrary to the public interest.

The main objective of this bill is to amend the aforementioned criteria. These amendments are intended to reflect changes being made at the national level to the access principles in the COAG Competition Principles Agreement 1995 and the national access regime. While Queensland's access regime is separate from the national access regime, the amendments to the access criteria in the bill are intended to reflect the revised criteria being introduced at a national level.

The bill proposes to amend criterion (a), the competition criterion, by reframing it to consider whether declaration rather than access or increased access would promote competition. This is in line with the Productivity Commission's findings. The bill also proposes to amend criterion (b) to confirm the natural monopoly test for access declaration criterion (b)—

Natural monopoly test—that it would be uneconomical to develop another infrastructure service if existing infrastructure could provide society's reasonably foreseeable demand at a lower total cost than two or more facilities.

The bill proposes to omit criterion (d) that requires that access or increased access can be provided safely as this is a matter that can be considered under the public interest test. The bill proposes to amend criterion (e) by reframing the public interest criterion in the affirmative requiring that access must promote the public interest rather than be in conflict with it. In reviewing the national regime, the Productivity Commission found that the purpose of the public interest test should be 'to require that the community as a whole is likely to be better off as a result of the declaration'.

The bill establishes pricing principles for the price of accessing a declared service. Under the pricing principles, the price should generate expected revenue at least sufficient to meet the costs of providing access to the service, ensure a return on investment commensurate with the regulatory and commercial risks, allow for multipart pricing and price discrimination when it aids efficiency, not allow a related service operator to set conditions that discriminate in favour of the service; ensure an operator's downstream operations, or a related entity, except as justified by a higher cost; provide access for other persons; and provide incentives to reduce costs or improve productivity.

The bill proposes to remove the references to the pricing principles from the provisions dealing with differential treatment of service users or those seeking access differently. The bill, however, does not amend the provisions requiring the QCA to consider the pricing principles when making an overall access determination or approving a draft access undertaking. A service operator may treat those seeking access differently in negotiating access agreements if the differential treatment is easily justified or is expressly required or permitted by an access code, approved access undertaking or access determination. Permitting differential treatment in these circumstances does not authorise the service operator to engage in conduct to prevent or hinder a users access to the service or to propose a price for access that is inconsistent with the pricing principles.

I note that key stakeholders expected to be affected by the bill were consulted and the comments provided were certainly taken into account when finalising the drafting of the bill. Stakeholders consulted included Aurizon Network, DBCT Management, Pacific National, the QCA, Queensland Rail and the Queensland Resources Council. As such, I conclude by commending this legislation to the House because, as I have previously stated, this legislation will be important to Queensland with respect to markets and also in relation to infrastructure and our economy more broadly.