




Speech By
Hon. Leanne Enoch

MEMBER FOR ALGESTER

Record of Proceedings, 12 October 2023

PUBLIC RECORDS BILL

Introduction

 **Hon. LM ENOCH** (Algester—ALP) (Minister for Treaty, Minister for Aboriginal and Torres Strait Islander Partnerships, Minister for Communities and Minister for the Arts) (4.01 pm): I present a bill for an act about making, managing and accessing public records and continuing the role of the State Archivist and the Office of State Archives, to repeal the Public Records Act 2002, and to amend this act and the legislation mentioned in schedules 4 and 5 for particular purposes. I table the bill, the explanatory notes and a statement of compatibility with human rights. I nominate the Community Support and Services Committee to consider the bill.

Tabled paper: Public Records Bill 2023 [1651](#).

Tabled paper: Public Records Bill 2023, explanatory notes [1652](#).

Tabled paper: Public Records Bill 2023, statement of compatibility with human rights [1653](#).

Today I present the Public Records Bill 2023. This bill will replace the Public Records Act 2002 with a more modernised record keeping legislative framework. The Palaszczuk government is absolutely committed to ensuring the storage, maintenance, preservation and accessibility of public records reflects the changing nature of record keeping. Currently at Queensland State Archives there are over 3.5 million records that tell many stories of the state's history, spanning 200 years. The Queensland State Archives plays a pivotal role in preserving our collective memory, offering a window into our history as well as a comprehensive record of past events, policies and decisions, providing a deep understanding of how our society has evolved over time.

There have been a lot of changes since the Public Records Act's implementation in 2002, including significant advancements in technology, especially around how we all communicate with each other. In 2002, when the current act was first put in place, the iPhone was still almost five years away, the World Wide Web had been part of the public domain for less than 10 years and Facebook was still a few years away from being a reality. Fast-forward to 2023 and there are so many new ways to communicate, whether it is via social media platforms or the advanced technology we now carry around in our pockets. With further advancements in technology, who knows what the next big thing will be. That is why the Palaszczuk government initiated an independent review of the Public Records Act 2002 to seek to modernise the legislative framework governing the record keeping of some 500 public authorities across Queensland. Under the guidance of retired Supreme Court Justice, the Hon. John Byrne AO, RFD, and supported by a team of experienced subject matter experts, the review was undertaken with the objective of modernising our record keeping framework. In addition, it aimed to integrate the insights and viewpoints of First Nations communities into record related choices and to consider the corresponding roles and authorities required by a modern State Archivist. The evaluation meticulously examined the existing records management structure, comparing it with similar systems in Australia and internationally.

The review's 27 recommendations for both legislative and non-legislative actions made it clear that the act should be modernised to align with contemporary needs. Twenty of the 25 legislative recommendations are addressed in the Public Records Bill 2023. In terms of the remaining five legislative recommendations not addressed in the bill, three recommendations relate to the management of records of local government councillors; another relates to Indigenous data sovereignty, which will all be addressed following further consultation and collaboration with key stakeholders and reported back to government in two years following proclamation; the other relates to the access decisions of former ministerial records in the custody of Queensland State Archives which has been resolved through use of the existing right to information framework.

The bill adopts a new purpose and set of principles for administering the act, including recognition of the importance of public records for Aboriginal peoples and Torres Strait Islander peoples. The bill also recognises the valuable contribution of Aboriginal people and Torres Strait Islander people by providing for representation on the Public Records Review Committee, which gives advice to the minister, and the creation of a new First Nations advisory group to advise the State Archivist. Preserving our historical records is more critical than ever in this digital age where information can be easily lost or become obsolete. This bill will help ensure that our shared heritage is protected for future generations. There is work still to be done to consider the outstanding recommendations, which will be undertaken collaboratively with key stakeholders. The State Archivist will update government two years after the proclamation of the new legislation on the outcomes of work on the outstanding recommendations. The update will also report on the success of the implementation of the bill.

Complete and reliable public records help tell the full story about the actions and decisions made and can be trusted by the organisation and the public. The bill appropriately places a requirement on public authorities to make public records that accurately show the actions or decisions of a public authority, including contextual information. Public records should be accurate, authentic and usable in whatever format they are created. To inform best practice record keeping within agencies, the bill will empower the State Archivist to issue records management standards, which will be developed in consultation with public authorities and will go through a regulation approval process. The simplification of the process for establishing a public authority to take control of the records of another public authority that ceases to exist and where no other public authority will take over its functions is also included in the bill.

The reforms in the bill also improve the protection of permanent public records at risk of loss or damage by requiring public authorities to look after and preserve public records they have responsibility for. Public authorities will continue to be required to give notice to the Archivist of public records in their custody that are older than 25 years or where the public authority knows, or should know, that the records have permanent value and are at risk of loss or damage. In Queensland, records at risk of loss or damage might include those stored in areas prone to flooding or bushfire and encompasses digital records in a business system that is no longer supported. This inclusion ensures the protection of public records that have significance to the state and their availability to the public. The bill also empowers the State Archivist to protect permanent public records at risk of loss or damage by directing the transfer of those records to Queensland State Archives. This bill will give the State Archivist the ability to suspend a disposal authorisation for public records by declaring a protection notice for a class of public records that might be required for a particular purpose, such as a commission of inquiry or other review.

This bill acknowledges the importance of monitoring record-keeping maturity through providing the State Archivist with the power to monitor, audit and report on compliance with the act. Importantly, it includes the ability to issue a notice to public authorities to report on practices, procedures or systems relating to the making or managing of public records or information about public records in their custody.

A pro-disclosure approach is to be adopted for access to records in the custody of Queensland State Archives. Embracing a pro-disclosure approach to public records is fundamental in upholding the values of transparency and accountability in government. Access to public records provides the knowledge needed to make informed decisions. It will also allow historians, researchers and information seekers to access accounts of past events, enriching our understanding of our state's evolution. Public records will be openly accessible unless they contain information that requires further protection through the setting of restricted access periods. Public authorities will now need to provide reasons when refusing access to those public records.

To ensure appropriate consideration of the sensitivity of information within some public records, the bill allows for a regulation to prescribe the circumstances in which the Archivist may refuse access to public records in the custody of the archives. This will only occur if the Archivist is satisfied that access would not be in the public interest or if access would inappropriately reveal culturally sensitive information or personal information.

The bill recognises the important link between public records, information privacy and the right to information. The bill will strengthen the legislative frameworks that govern record keeping and public access to records. It includes amendments to better align with the Right to Information Act 2009 and the Information Privacy Act 2009, including adopting the definition of 'personal information' rather than referring to 'personal affairs' and incorporating sensitive information within the restricted access period provisions.

I can also advise, following joint work and consultation with the Local Government Association of Queensland and the local government sector, that the recommendation relating to provisions to define local government councillors as public authorities will also be further considered, with the State Archivist reporting back to government in two years following widespread stakeholder engagement. I thank the LGAQ, in particular, for their assistance through this process. Allowing further time to consider the review's operational recommendations will ensure consistency with other information and data initiatives of the Queensland government and will enable alignment with the Path to Treaty.

Proposed reforms about the recognition and participation of First Nations peoples were universally supported. As we take the next steps on the Path to Treaty, archives and records will be more important than ever in telling the shared history of Queensland. The records held at the Queensland State Archives will play a central role in the Truth-telling and Healing Inquiry, acting as a primary source as the inquiry examines the enduring effects of colonisation.

In a significant step forward, the bill will adopt principles for administering the act to explicitly acknowledge the importance of public records for First Nations people and the broad value of public records. This will play an integral role in the Truth-telling and Healing Inquiry and future treaty negotiations as part of Queensland's Path to Treaty. The bill will also include assurances surrounding ready access to public records for First Nations people in supporting their rights and entitlements in connection with culture and community and in relation to reconciliation.

Indigenous data sovereignty is a global movement that allows First Nations people to assert rights over the collection, ownership and application of data about their communities. For more than 200 years, many Aboriginal and Torres Strait Islander people have had every aspect of their lives documented by government, often without their knowledge or permission. As part of the act review process, Rose Barrowcliffe, the state's First Nations Archives Advisor—a role that is the first of its kind—consulted with First Nations stakeholders on Justice Byrne's four recommendations specifically related to Aboriginal and Torres Strait Islander people and public records. Dr Barrowcliffe's advice reflected feedback from stakeholders that Aboriginal and Torres Strait Islander people need to be involved in decision-making about records that relate to them.

To show the Palaszczuk government's commitment to the principles of Indigenous data sovereignty, we will establish a First Nations advisory group to enshrine Aboriginal and Torres Strait Islander decision-making into the management of public records. Creating this body will further embed First Nations perspectives into the State Archives, which is by nature a colonial institution. The Queensland State Archives will undertake further consideration of recommendations related to Indigenous data sovereignty, Indigenous data governance and Indigenous cultural and intellectual property to support a whole-of-government approach in alignment with Path to Treaty.

Public records are vital to increasing the efficiency and effectiveness of community services, providing a foundation for informed decision-making and promoting economic development, innovation and research. The bill recognises the importance of our public records being available to our community now and into the future. It is for this reason that we need an act that will be as robust and effective now as it is for the future. A robust act strikes a crucial balance between transparency and privacy, supports informed decision-making and empowers citizens, researchers and policymakers with reliable and accurate information.

I thank the independent panel members and those who were involved in the consultation processes. In doing so, they have made an important contribution to the future of public record management. I commend the bill to the House.

First Reading

Hon. LM ENOCH (Alger—ALP) (Minister for Treaty, Minister for Aboriginal and Torres Strait Islander Partnerships, Minister for Communities and Minister for the Arts) (4.13 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to Community Support and Services Committee

Madam DEPUTY SPEAKER (Ms Lui): In accordance with standing order 131, the bill is now referred to the Community Support and Services Committee.