




Speech By
Hon. Leanne Enoch

MEMBER FOR ALGESTER

Record of Proceedings, 29 November 2023

**INFORMATION PRIVACY AND OTHER LEGISLATION AMENDMENT BILL;
PUBLIC RECORDS BILL**

 **Hon. LM ENOCH** (Algester—ALP) (Minister for Treaty, Minister for Aboriginal and Torres Strait Islander Partnerships, Minister for Communities and Minister for the Arts) (12.01 pm), in reply: I thank all honourable members for their participation in the debate on the Public Records Bill 2023. It is encouraging to see so much interest in the making, managing and accessing of Queensland's public records. I am heartened by the keen interest shown by members who spoke about how they had learnt about the great work of the State Archives and how essential public records are for the community and government through this legislative process. The support for the inclusion of First Nations perspectives in the bill is also heartening, particularly given the role public records have played in capturing Queensland's history. Again, I would like to thank the members of the Community Support and Services Committee for their consideration of this reform. I would also like to thank all those who have engaged in the consultation leading up to this bill and all those who provided submissions.

I would like to take a moment to respond to some of the comments made during the debate. Members of the opposition commented on the reasons for the review of the act and this new legislation. Let me be clear. It has been more than two decades since the original Public Records Act was introduced. In that time, we have seen phenomenal technological advancements. To put it into perspective for the members opposite, 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, YouTube, X formerly known as Twitter and other social media platforms were still a few years away from becoming a normal part of everyone's lives. As the *Report of review of the Public Records Act 2002* by the independent panel noted—

Digital information was not new in 2002 when the Act was passed. However, the scope, volume and complexity of digital information that is now created and received by government could not have been anticipated.

The review of the Public Records Act was initiated by the Palaszczuk government in recognition of the need for contemporary records management legislation. As with many jurisdictions, Queensland's Public Records Act had not undergone a complete review since commencement. During the last two years we have seen revised public records legislation implemented in New South Wales, and the National Archives of Australia undertook the Tune review of our Commonwealth records legislation. While many other states retain legislation that is almost a decade old, Queensland will have a contemporary Public Records Act.

This new bill sets a precedence for modern records management and is needed to address the changes that have occurred during the last two decades. We have seen a dramatic increase in the volume and types of information, data and records created by government. Our 20-year-old public records legislation needed review to enable efficient record keeping for digital channels. There has also been a continued growth of both digital and physical records, with implications on the effective delivery

of government services and cost impacts from the significant costs for storing information. As we have already heard, retaining information and records longer than required may also increase the risk of data breaches.

A comprehensive review of the act was required to ensure the legislative framework enables contemporary information and record keeping practices that support good governance and decision-making by government. Undertaking the review has also provided the potential to enable the realisation of savings and efficiency gains, with further work to be undertaken by the State Archivist to develop a plan for reducing the legacy physical records of government that are not of permanent value.

The bill takes on the recommendations made by the independent panel in their *Report of review of the Public Records Act 2002* about the independence of the State Archivist, which was a point of many contributions. As I mentioned in my second reading speech, I noted the contribution at the public hearing from the Australian Society of Archivists, where they acknowledged this as 'world leading work' and highlighted the improved clarity within the legislation and the positive way the bill strengthens the autonomy and independence of the State Archivist, and better enables the archivist to monitor and report on record keeping maturity across Queensland public authorities.

The bill provides for this independence by requiring any direction from the minister to be in writing and that any direction must not be inconsistent with the act. Any direction must also be published in the annual report for the Queensland State Archives. The level of independence proposed under the Public Records Bill is consistent with public records legislation across all other Australian jurisdictions and in many aspects affords the State Archivist greater independence than in several other jurisdictions. For those opposite who were calling for further independence, I can say that no other Australian jurisdiction has a State Archivist who is completely independent from ministerial oversight. The bill also includes provision that the director-general or senior public servants cannot direct the State Archivist in relation to any function under the bill; they can only provide administrative support to the archives.

Given the many thousands of records held by Queensland State Archives about First Nations peoples and the importance of the upcoming Truth-telling and Healing Inquiry, the creation of the First Nations Advisory Group is a critical step towards embedding the voices of Aboriginal and Torres Strait Islander peoples in decisions about these records—not, as the member for Surfers Paradise implied in his contribution, that it was being established to simply avoid offence. It is pretty clear in the recommendation and we are following that.

The Queensland State Archives' First Nations Archives Adviser, Dr Barrowcliffe, undertook further workshops with First Nations stakeholders in July 2023, who also strongly supported this recommendation, along with public authorities which provided feedback during the consultation period. As stated by Mick Gooda, co-chair of the Interim Truth and Treaty Body—

A cultural lens must also be applied to the collective use and management of information held, taking into account the interests of First Nation peoples.

The bill's provisions, particularly the establishment of the First Nations Advisory Group, will better support QSA's ability to appropriately manage permanent records of value to reconciliation and healing. As many government members noted in their contributions, including my colleagues the member for Bundamba and the member for Cook, the bill acknowledges the significance of public records relating to First Nations peoples, particularly as it relates to language revitalisation and reconnecting community and families.

In terms of the bill's treatment of the topics of pro-disclosure and access, which was raised by a number of members, including the member for Maiwar, the bill improves the accessibility of public records in the custody of Queensland State Archives in a number of ways. When public records are transferred to the archives, a pro-disclosure approach must be adopted by the transferring public authority. There are limited triggers for restricting access to the records, including if the record contains personal information, culturally sensitive information or national or state security information. Any person can apply for access to a restricted record and the responsible public authority must decide within 35 days, or longer if agreed by the State Archivist, about access including whether to apply any conditions to access. The requirement for a decision to be made in a specified period of time is a new requirement to ensure decisions are made in a timely way. This has not always happened in the past.

If access is refused, the public authority must tell the State Archivist why. If the State Archivist and the public authority do not agree about the access decision or applied conditions, either party can refer the matter to the Public Records Review Committee for resolution. The State Archivist may also refuse access or set restricted access periods for public records in QSA's custody in prescribed circumstances, set by regulation. These circumstances may include where the State Archivist is satisfied access would not, on balance, be in the public interest and would inappropriately reveal culturally sensitive information or personal information.

In conclusion, this bill implements the recommendations from the report of the independent panel led by Justice Byrne and provides a legislative framework for making, managing and accessing public records in a way that benefits present and future generations. The bill modernises our public records legislation.

Again, I would like to thank the members who have contributed to the debate of the bill. I do want to just reflect on a quote from the member for Surfers Paradise that I have found quite interesting. He said at one point, 'It is important that we do the things we say we are going to do,' and that is a direct quote. This is from the member for Surfers Paradise, who has supported the Leader of the Opposition in reversing their support of the Path to Treaty legislation in this House. I find that quite ironic.

Again, I would like to thank the many public servants who have worked hard to deliver this important reform, including the Queensland State Archivist, who has throughout this process conducted herself with the highest level of professionalism. I thank her and her State Archives team for their continued expert advice to government.

As I foreshadowed in my second reading speech, the government plans to move three very minor, technical amendments including to change clause 106 by amending the reference to 'Office of State Archives' to 'Office of the Queensland State Archives' and a minor change to the consequential amendments to remove two references to the term 'repealed' when referencing the Libraries Act 1988 because that act, of course, has not been repealed.

I also want to acknowledge my team from my office who have worked hard to get this bill to where it is. I commend the bill to the House.