



Speech By
Rob Molhoek

MEMBER FOR SOUTHPORT

Record of Proceedings, 3 April 2019

QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL AND OTHER LEGISLATION AMENDMENT BILL

 **Mr MOLHOEK** (Southport—LNP) (11.44 am): I rise today to speak on the Queensland Civil and Administrative Tribunal and Other Legislation Amendment Bill 2018. This bill seeks to amend the Queensland Civil and Administrative Tribunal Act 2009, or QCAT Act, to improve the operational efficiency of the Queensland Civil and Administrative Tribunal, QCAT, to better achieve the objects of the QCAT Act and to improve fairness and provide greater rights for Queenslanders buying a vehicle and address issues concerning lemon laws.

The bill uses a number of technical changes to the provisions of the QCAT Act to improve the operational efficiency of the tribunal. These include: a clarification that QCAT's tenancy jurisdiction is limited to claims of not more than \$25,000; broadening the scope of the principal registrar so that it can now issue notices to parties or compel a person or persons to produce particular documents; clarifying that an adjudicator sitting alone can constitute QCAT; and providing a legislative framework to enable QCAT to undertake conciliation in addition to other alternative dispute resolution processes currently available.

Further, the bill also implements committee recommendations from 2015 in relation to lemon laws. In 2015 the Legal Affairs and Community Safety Committee conducted a lemon laws inquiry. In its report the committee recommended that QCAT's jurisdiction relating to motor vehicle limits should be abolished. The committee argued that these limits should be abolished over time in order to give Queenslanders the same access to affordable justice as consumers in other jurisdictions like New South Wales and Victoria.

The bill attempts to achieve these recommendations by expanding QCAT's jurisdiction in relation to vehicles to deal with actions of an amount or value or other relief from \$25,000 to not more than \$100,000. This applies to disputes under the Fair Trading Act about consumer guarantees under the Australian Consumer Law for the supply of goods or services where the action relates to a motor vehicle including a caravan or motorhome. It also applies to the Motor Dealers and Chattel Auctioneers Act 2014 in relation to statutory warranties for used motor vehicles including motorhomes but not caravans. Specifically, the bill amends the Fair Trading Act to provide a definition for motor vehicles and implements the commitment to reinstate the statutory warranty for class B, older second-hand vehicles, that operated under the Property Agents and Motor Dealers Act 2000.

I note that the Transport and Public Works Committee was referred this bill by the Committee of the Legislative Assembly for detailed consideration. The committee recommended that the bill be passed. A total of 13 submissions were made about the bill to the committee and the majority of stakeholders were welcoming of the objectives of the bill. The Queensland Law Society and Community Legal Centres were broadly supportive of the changes. The Queensland Law Society also highlighted their concern with the inability of solicitors to appear in QCAT as a right. In addition, the Motor Trades Association of Queensland, Lemon Laws 4 Aus, Lemon Caravans and RVs in Aus, and Caravan Trade & Industry Association of Queensland were all supportive of the bill.

The LNP supports the policy intent of the bill to ensure that consumers have appropriate protections available to them. We support any initiative which aims to improve fairness and to provide increased protection to consumers, especially for consumers who purchase new and used vehicles. However, unfortunately, the bill raises a number of concerns for us on this side of the chamber. Perhaps the largest concern is the expansion of QCAT's already stretched jurisdiction.

The expansion of QCAT's jurisdiction to deal with lemon laws will likely cause inflexibility and lengthier time delays in tribunal proceedings. As QCAT's jurisdiction has continued to expand, this asleep-at-the-wheel Labor government has failed to resource or give it the attention it deserves. The 2017-18 QCAT annual report revealed that QCAT is severely underresourced and overworked. The report reveals that increases in complexity of the matters lodged coupled with QCAT's limited resources continue to put pressure on QCAT's ability to meet its benchmarks for annual clearance rates.

QCAT's President, Justice Martin Daubney, has also warned of the under-resourcing issues the tribunal faces and the impacts it is having on staff. He has asked that the government urgently address those resourcing issues. Justice Daubney commented—

QCAT's members and registry staff have been stretched beyond all reasonable and proper levels of tolerance. Any further delay in appropriate resourcing for QCAT will inevitably result in the tribunal being unable to deliver anything like quick and assessable civil justice to Queenslanders.

While I absolutely support any initiative that will result in increased protections for consumers, I call on the Attorney-General and the Palaszczuk Labor government to urgently review QCAT's funding so it has the capacity to deal with this increased jurisdiction and workload.