



**The Health, Communities, Disability Services and Domestic and Family Violence
Prevention Committee Investigation: Closure of the aged care facility at the Earle Haven
Retirement Village in Nerang**

**Prepared by
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Council on the Ageing (COTA) Queensland welcomes this opportunity to provide a submission to the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee Investigation: Closure of the aged care facility at the Earle Haven Retirement Village in Nerang.

COTA Queensland is deeply concerned with the situation at Earle Haven – in particular the distress experienced by the residents who were removed from their ‘home’ in an emergency-type situation, the health and safety risks for these residents, and the increased concern and alarm for older people and their carers and families in considering Residential Aged Care as an option for themselves and their loved ones in the future.

The Earle Haven situation may have exposed a ‘canary in the mine’ situation, highlighting a number of risks arising through business arrangements between owners of facilities, contractors and sub-contractors. It also may highlight potential areas for attention in relation to the interface between State and Commonwealth responsibilities. In particular, the relationship between the **Retirement Villages Act 1999** (Queensland) and the **Fire and Emergency Services Act 1990** (Queensland) and the Commonwealth **Aged Care Act 1997**; and arrangements in the case of emergency situations for residents of aged care facilities.

COTA Queensland in its submission to the Committee’s Inquiry into Aged Care, End-of-Life and Palliative Care, and Voluntary Assisted Dying commented that it considered the Commonwealth Government’s aged care reforms would improve the standard of care available to older Queenslanders. However, the situation at Earle Haven raises questions as to how well the reforms have been implemented and whether the changes to provider registration and provider quality management have gone far enough.

The aged care provider registration process places a strong onus on an organisation seeking registration to prove that it is capable of managing an aged care facility at an acceptable standard. However, if that registered provider chooses to sub-contract out its care responsibilities, the sub-contractor is not required to go through the registration process. It is presumed that the registered provider will manage the relationship under its registration. The Earle Haven situation based on the information made public shows a situation where commercial conflict existed for a reasonable period between the registered provider and the company contracted to provide residential care services on behalf of the registered provider. COTA Queensland is concerned that a sub-contractor is not also required to be a registered provider, this should be the case even where the sub-contractor does not intend to seek funding directly from the Commonwealth.

The Commonwealth Government requires that registered providers maintain resident medical and care records on-site to ensure medical records can be readily accessed to help expedite any medical assistance required by a resident. The 69 residents of Earle Haven who had to be relocated to other care facilities were reported to all have had high medical care needs, including dementia. The removal of the computer servers that held the residents’ medical records on 10 July 2019 placed any resident requiring urgent medical assistance in a high risk situation if medical practitioners could not access the resident’s medical history and current treatments. This situation is so serious that those responsible should face strong legal consequences for this action. The Commonwealth Government must strengthen the sanctions it currently has in place where providers and their agents breach registration requirements.

It is understood that Queensland Ambulance officers and Health officials would have preferred to keep all residents at Earle Haven to minimise the stress and health risks that could arise through forced relocation from their home. It was disturbing to hear that the removal from the facility of supplies and equipment necessary to maintain the residents’ welfare gave health and ambulance officials little choice but to evacuate residents. This situation is another clear breach of the provider’s responsibilities to the residents as well as the requirements of its registration.

Emergency evacuation arrangements for residents of Aged Care Facilities is another major area of concern which involves Commonwealth, State and Local Governments. The forced evacuation of the 69 residents for administrative rather than clinical reasons placed substantial pressure on the Queensland Ambulance Service to meet this request for assistance. It is of serious concern that the provider and the sub-contractor had no pre-existing plans in place to manage an emergency evacuation of high care residents. COTA Queensland in its submission to the Committee’s Inquiry into Aged Care, End-of-Life and Palliative Care, and Voluntary Assisted Dying stated that we had been advocating over the past five years to strengthen evacuation arrangements for residents in aged care facilities. Current legislation focuses on evacuation in the case of a fire, with providers required to

nominate a safe place to which evacuated residents can be moved, typically a car park. Under state emergency legislation there are no specific provisions that relate to residential care facilities.

The Commonwealth Department of Health has guidelines in place that require facilities to maintain quality of care and to have plans in place for emergency events.¹ The guidelines note that state and territory government have primary responsibility for emergency management, and local governments have an important role in planning, preparedness, response and recovery. Providers are expected to assess risk and respond to the advice of local emergency management authorities.

Following Cyclone Debbie, the Office of the Inspector General Emergency Management noted that aged care providers require significant support and encouragement in planning and exercising evacuation.² The Inspector General's report noted a lack of consistency across providers, which resulted in varying levels of preparedness. In a 2018 report, Volunteering Queensland called for increased action to safeguard older people during disasters and for Queensland legislation to be strengthened in relation to emergency evacuation requirements for a range of disasters.³ The Report recommended that:

Strengthen Queensland Legislation in respect to residential provider operations. Strengthen mandatory emergency evacuation planning requirements through the review and amendment of The Fire and Emergency Services Act 1990, to include other disasters. This is seen as a vital necessary change to ensure the safety of older people living in residential facilities. The review should consider ways to incorporate:

- *Emergency (or disaster) plans into Fire and Evacuation Planning processes, e.g. Subdivision 2 – Fire and Evacuation Plan is changed to Fire and Emergency (or Disaster) Evacuation Plans*
- *A clause that specifically requires that aged care residential providers (e.g. Aged Care Homes, Disability Services, etc.) have in place full evacuation plans and arrangements to accommodate residents in emergency accommodation if required at times of disaster*
- *Emergency (or disaster) plans into Fire Safety Management Planning for Residential Care Providers, e.g. Subdivision 3 – Fire Safety Management Plan be renamed to Fire and Emergency/Disaster Event Safety Plan and amend to specifically cater for residential service providers. Residential service providers would then only be issued with a Certificate of Compliance if they had appropriate fire and emergency/disaster event arrangements in place.*

COTA Queensland now believes that the definition of emergency should be broadened to include any event that could have adverse health impacts on patients/residents in residential care.

The growing trend of retirement villages to also provide aged care - both through residential aged care and through home care packages for people living in the 'retirement' part of the village - may also be an area for attention, given that Retirement Village legislation is a State Government responsibility and Aged Care is a Commonwealth Government responsibility. COTA Queensland recently delivered peer-led community education sessions in various locations across the state in relation to the changes introduced through the Housing Legislation (Building Better Futures) Amendment Act (2017). The Peer Educators, as they became more informed of the changes, and given their knowledge of the aged care system through previous peer education training, raised concerns about the implications of this interface of legislative responsibilities, for example in the areas of 'consumer directed care' (how much choice do residents of retirement villages have in choosing their provider), provider registration, and monitoring, compliance and complaints procedures.

COTA Queensland believes that aged care services in Queensland must continue to be improved through a **person and relationship-centred approach** that supports healthy ageing, **wellness in all its forms (physical, mental, social, spiritual) and inclusion**. Services must be **designed around consumers' needs** and not the needs of aged care providers. Person-centred care supports services in responding to the **diverse needs** of individual Queenslanders.

¹ Department of Health. 2018. *Risk management for emergency events in aged care*.

² Office of the IGEM, 2017, *The Cyclone Debbie review*.

³ Volunteering Queensland, 2018, *Disaster preparedness*.