



Speech By  
**Lachlan Millar**

**MEMBER FOR GREGORY**

---

Record of Proceedings, 26 March 2019

**GUARDIAN AND ADMINISTRATION AND OTHER LEGISLATION AMENDMENT  
BILL**

 **Mr MILLAR** (Gregory—LNP) (3.39 pm): I rise to make a contribution to the debate of this omnibus bill that will affect all Queensland's impaired adults and their families and carers. This is yet another bill that was brought before the previous parliament but lapsed and it has struggled to make the grade under this Labor government. Meanwhile, life has continued on for many Queensland families who have been awaiting these changes.

Chief among those concerned with the bill are Queensland seniors. We live at a time when caring for our seniors has never had more public attention. This is partly to do with the demographic cluster of baby boomers now reaching their senior years, but it is also to do with improved life spans and the increase in the wealth of Queenslanders since the days of our parents and grandparents. Any thoughtful person seeing those three conditions brought together would also see the absolute temptation for bad actors to seek some advantage through manipulating or exploiting elderly Queenslanders. It has happened enough that it is a common anxiety among seniors. The majority want to feel they have some ability to control what happens to them and their estates should they suffer from impaired capacity. They are actively planning for such an issue. This bill seeks to strengthen Queensland's legislative framework in this regard. That is both welcome and overdue.

The bill will enhance the safeguards for people who appoint enduring powers of attorney. I hope that will encourage more people to put an EPA in place. It is usually better for everybody if there is an agreed EPA appointed by an elderly family member, but to underwrite those desired good outcomes the bill strengthens the eligibility requirements for people wishing to accept appointment under the enduring power of attorney. This is part of the bill I wholeheartedly support and one of the reasons this bill should have been debated in the previous term.

To hold an enduring power of attorney, a person must demonstrate a capacity to deal with matters that will likely come up. Also, they must not have been a paid carer for the adult in the previous three years. Furthermore, the bill ensures that service providers in residential services are precluded from being an impaired adult's attorney under the EPA regime and also from being their health attorney under the statutory health attorney arrangements.

Caring for the elderly and the impaired is a noble employment, but that is not to say that those roles only attract the noble of purpose. We have all heard of cases where the unscrupulous have used the confidence and physical proximity that comes with the position of carer to exploit their client for their own gain. While it sounds harsh to exclude all carers for three years when the great majority are wonderful human beings who do a great job, I acknowledge that having a strong legislative guideline not only ensures protection for our elderly but also removes incentives for bad actors to enter the carer workforce with a view to the main chance.

This is such an anxiety for older Queenslanders that it influences their decisions in related areas such as seeking assistance for independent aged-care living or moving to residential aged care. There was a recent ABC news report citing private providers in the federal Home and Community Care

program who had been doorknocking elderly Australians to get them on the program, with that private company providing the federally funded care. The clients were then struggling with a chorus line of constantly changing faces, as workers did not stay long with the provider. They found the service levels were uneven, as carers had varying abilities, and many seniors became anxious about constantly letting these strangers into their homes. However, many did not feel confident in complaining or terminating the service provider. The thought of our elderly feeling this unsafe and fearful is absolutely heartbreaking. It made me think: thank heavens for the wonderful women who undertake home and community care in Longreach, a very important service. It is a vital service for our seniors and one of those few situations where country Queenslanders may be a little better off than their counterparts in the south-east of the state.

Of course, it is not just the elderly who fret about what may happen if they become impaired; there are many families who must make provision for adults who are impaired through disability, illness such as stroke or accident such as car crashes. I must praise again the wonderful efforts by families and groups such as the Yumba Bimbi to afford these members of our Gregory community every dignity and protection. Appointing guardians and attorneys is part of the process, and this bill will strengthen their hand. Yumba Bimbi does an absolutely wonderful job. Yumba Bimbi is one of the only services that provides respite care certainly in the seat of Gregory but also in much of western Queensland. I take my hat off to them. I commend the staff on their dedication. A couple of weeks ago I had the opportunity to take the shadow health minister there to see firsthand the fantastic professional staff of Yumba Bimbi and the commitment they have to our people. They do a great job.

Not only will this legislation require EPAs to have some demonstrated capacity; it will also empower QCAT to compel present and former guardians, administrators or attorneys to pay compensation to the principal or the principal's estate if they have caused a loss through failure to comply with Queensland's guardianship legislation. Previously, to prosecute such a claim people were forced to the expense of funding court action. This meant it became one law for those who could fund the court action and a different law for those who could not. Clearly, that is not a satisfactory state of affairs.

While this arrangement is an improvement, there is one caveat: QCAT is already struggling with its current workload and is already complaining of being under-resourced. This bill has many clauses pertaining to QCAT apart from the one I am referring to. Under this legislation, QCAT will be required when carrying out its functions to take into account, as much as practically possible, the views, wishes and preferences of the impaired adult and the members of their support network. This is praiseworthy indeed, but to fulfil this legislative directive QCAT will have to both discover and document those views, wishes and preferences. This will take time and resources.

The bill will also grant QCAT new powers in relation to missing persons. There is a seven-year period before applications can be made to have a missing person declared dead. In that time their financial affairs are in limbo. This can have terrible impacts on the lives of their dependents. It can even have an adverse impact on the estate itself. This legislation brings Queensland into line with all other Australian jurisdictions by providing QCAT with the power to appoint an administrator to manage the missing person's estate. This is prudent and praiseworthy but, again, it is not just a matter of legislating. The Labor government needs to fund QCAT to carry out all its duties to the high standards that Queenslanders expect and that QCAT sets itself.

Many of my constituents who are elderly and find themselves alone in the world rely on the Public Guardian. Many in this older generation were raised to believe this would be frugal and yet still give them best practice outcomes. Sadly, this has not always been the case so I am pleased to see that this legislation allows QCAT to remove the Public Guardian if there is an eligible person in the adult's support network who will accept the appointment. Again, this is an excellent initiative, but screening for such a person and making appointments will take time and resources. It is up to the Labor government to back its own legislation and ensure QCAT has those resources.

This omnibus bill includes amendments to the Integrity Act 2009, the Government Owned Corporations Act and the Public Interest Disclosure Act. These amendments will allow senior executives and senior Public Service officers to seek advice from the Queensland Integrity Commissioner without having written permission from their superiors. I think this is a great preventative to the spread of corruption in our public institutions. I also find most sensible the arrangement to allow former designated persons a period of two years post separation during which they can consult the Integrity Commissioner about matters of ethics connected to their previous employment that arise in their post-separation life. I commend this bill to the House.