

**Submission  
No 65**

## **EQUALITY LEGISLATION AMENDMENT (LGBTIQA+) BILL 2023**

**Name:** Name suppressed  
**Date Received:** 15 April 2024

Partially  
Confidential

██████████  
c/- Jack Pembroke-Birss  
Norton Rose Fulbright  
Level 5, 60 Martin Place  
Sydney NSW 2000

12 April 2024

Mr Clayton Barr MP  
Chair, Legislative Assembly Committee on Community Services  
Parliament House  
Macquarie Street  
Sydney NSW 2000

By email: [communityservices@parliament.nsw.gov.au](mailto:communityservices@parliament.nsw.gov.au)

Dear Mr Barr

### **Inquiry into *Equality Legislation Amendment (LGBTIQA+) Bill 2023***

Thank you for the opportunity to contribute to this inquiry and to express my support for the above bill, specifically those provisions that would permit me, and others like me, to apply to have the sex descriptor on our NSW birth certificates changed to accurately reflect our sex and gender – something which is not possible in NSW today.

I was born in New South Wales in 1984. I am genetically male with an intersex (genetic) variation. I have both male and female physical characteristics. I identify as non-binary.

#### **Personal background**

When I was born I exhibited ambiguous genitalia as well as a number of other physical issues. The medical team was unable to determine whether I was male or female and advised my parents to record my sex as female and raise me as a girl. My parents were also advised to not disclose the truth about my birth to me. My parents followed that advice and my gonads were removed at that time. My parents named me ██████████.

By the time I was 7 years old I had been subjected to multiple surgeries, including on my genitals to make them appear more female. I recall attending several medical appointments and undergoing surgeries, but I do not recall being informed about the nature of these surgeries and certainly do not recall consenting to them. I have struggled to locate and access my medical records from this period.

My body does not produce testosterone or oestrogen. When I was 12 or 13 years old, I was prescribed and started taking oestrogen to facilitate puberty and develop female characteristics, although the reason for this medication was not disclosed to me. I was often excluded from meetings between my parents and my medical team.

Within the first week of completing high school, my kidney doctor told me the truth about my birth: that I was born with ambiguous genitalia, that my parents were advised to raise me as a girl, and that these were the reasons for the earlier surgeries and medication. My parents had kept this truth from me up until then. The doctor also revealed that I was genetically male and gave me the choice to continue taking oestrogen or to switch testosterone in order to develop male characteristics. I chose to take testosterone the following year to match my chromosomal sex. I started identifying as male and using the name ██████████.

I took testosterone for 12 years with limited response, although my voice and hair distribution did change. I stopped taking testosterone around 2015 after being advised that the medication was having an adverse

effect on my liver. I was also uneasy with the way the testosterone made me feel. I was aggressive and on edge.

As a result of my intersex variation, the surgeries and medical treatments, I have both male and female physical characteristics. I now identify as non-binary. I have changed my name to [REDACTED] which is a gender neutral name. This is who I am and I am happy so long as I am healthy.

### **Sex descriptor on my NSW birth certificate**

As I have noted above, my original birth certificate recorded my sex as “female”.

In about 2024, I applied to NSW Registry of Births, Deaths and Marriages (**BDM**) to change the sex descriptor on my birth certificate from “female” to “male”. This was approved as a “correction” to the register.

In about 2015, I applied to BDM to change the sex descriptor on my birth certificate from male to “X” and provided declarations from my doctors confirming my intersex status. BDM responded that it was not possible to record sex as “X” and that BMD could only register a person’s sex as either “non-specific”, “inter-sex”, “indeterminate”, “male” or “female”.

In about 2016, I resubmitted my application to request that the sex descriptor on my birth certificate be changed to “indeterminate”.

In March 2017, BDM advised that, following the High Court’s decision in *Norrie’s case* [2014] HCA 11, any future change of sex descriptors on birth certificates will display “non-specific” and that I had been approved for that change on my birth certificate. I did not consider this sex descriptor to be accurate or appropriate based on my own circumstances, which are different from the circumstances in *Norrie’s case* which I understand recognises that a person may be neither male nor female. As I have stated, I have both male and female characteristics. BDM initially refused to meet with me or my team to discuss the particular circumstances of my case.

In April 2017, the Registrar and Deputy Registrar of BDM did meet with my legal team. They stated that BDM records “sex not gender”. They also stated that although “intersex” is today available as a sex descriptor at birth, this was later “corrected” following medical advice to either “male” or “female”. I subsequently withdrew my application.

In 2020, I applied again to BDM to change the sex descriptor on my birth certificate from male to “non-binary” or, in the alternative, “no sex descriptor”. In July 2022, BDM declined this request stating that they currently register sex, not gender, and that “non-binary” “is not something we presently do or have provisions for”. Despite further enquiries, BDM has been unable to explain, by reference to any legislative provision or formal policy document, why they cannot record sex as “non-binary”.

This inability to change the sex descriptor on my birth certificate to accurately reflect who I am, and the lack of transparency concerning why I am unable to do so, is distressing to me and undermines and invalidates my sense of identity. The only conclusion I can draw from my experiences is that the current policy on sex descriptors (whatever it is) promotes discriminatory practices against people who identify as anything other than what BDM is willing or able to record on the register.

This obstacle to accurately reflect who I am on my birth certificate also creates numerous practical difficulties, bureaucratic hurdles and repeated personal embarrassments, particularly in instances where more than one piece of identification is required to prove my identity. This places me in a position of needing to explain the inconsistency between my birth certificate, other forms of identification and how I present.

I am aware that the above bill, if passed into legislation, would allow me, and others, to apply to the Registrar to change our sex descriptor as appropriate, including to “non-binary” (see clause 32B). I support this provision and the bill more broadly and hope that the NSW Parliament will vote to remove all remaining discrimination of LGBTIQ+ communities in the State. I would be pleased to appear at any hearing to tell my story.

Yours faithfully,

[Redacted signature]

[Redacted name]