

INQUIRY INTO SAME SEX MARRIAGE LAW IN NSW

Name: Name suppressed

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Partially Confidential

Submission to the NSW Inquiry on State-based same-sex marriage legislation

1. From a legal perspective, marriage was traditionally legislated by the State and Territory governments. However, since the Commonwealth passed the Marriage Act, it has largely been left to the Federal government. That said, when the Marriage Act was amended to narrow its scope to only legislating with regards to marriages as conducted between a man and a woman, the residual areas of marriage were consequently left again to the States to legislate.

New South Wales has the right and the duty to legislate for same-sex marriage for its residents, given that the Federal government will not heed the calls of the public at large. As the largest State in the Commonwealth, we have an opportunity to lead by example, and pass this law which would set not only a precedent, but also help thousands of families out there in NSW who have two dads or two mums, and who need the protection that our laws should supply.

As it stands, de facto same-sex couples (and opposite sex couples) all have the same rights and obligations as married couples. For many de facto couples, nothing will change. It is literally a semantic shift. However, it is an important one, not least because marriage is recognised universally and the rights afforded couples married in NSW are honoured in other countries and territories around the world. For example, if a same-sex couple were to be legally married in NSW, they would consequently also be legally married in Israel. Not only that, but that marriage would be recognised in other jurisdictions which recognise marriage equality – at this point that would include Canada, Argentina, Belgium, Denmark, Iceland, the Netherlands, Norway, Portugal, Spain, South Africa, Sweden, jurisdictions in Brazil, Mexico and the US States of Connecticut, Washington D.C., Iowa, Massachusetts, Maryland, Maine, New Hampshire, New York, Vermont, and Washing State. Additionally, this will soon include Andorra, Colombia, Finland, France, Luxembourg, Nepal, New Zealand, Uruguay, and the United Kingdom (in particular where the vote on same-sex marriage legislation was not only led by a conservative, but won in the House of Commons 400 to 175).

Aside from that, there are various religious organisations that already recognise same-sex marriage in various ways including Quakers, Episcopalians, United Church of Christ, and Reform, Conservative and Masorti Jews.

A majority of Australians are in favour of same-sex marriage as well (two thirds) (<http://www.smh.com.au/national/new-poll-backs-samesex-marriage-20120213-1t1h4.html>). At this point, it's clearly something that we want, and as our representatives, it is incumbent upon you to represent our wishes with legislation.

On a personal note, my family would appreciate it very much.

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As far as “alternative models of legislation” are concerned, NSW already has a “Civil Union” register. It’s not the same, and we all know that.

As far as changes in social attitudes towards same-sex marriage in Australia, I am but one person. But I am one of the people that are a part of the overwhelming majority of Australians who support this kind of legislation. Regardless, abolishing slavery in the US was unpopular, but it was the right thing to do. Women’s suffrage, Civil Rights, ending White Australia, all were not popular and yet still the right thing to do. Even as recently as the 70s people from different races couldn’t marry each other. Regardless, changing that was the right thing to do. Like now, legislating for full marriage equality is the right thing to do.

My gender does not dictate who I am attracted to, nor does it for anyone else in this world. It is high time the law recognised what already exists in this country. When the law is so outdated that it fails to recognise something that is so obviously already happening, it is useless and loses its force. As long as same-sex couples cannot wed, it cheapens the institution for everyone. We are not really free and equal until *everyone* is free and equal.

I pray you do the right thing.