

**Submission  
No 7**

**INQUIRY INTO EDUCATION LEGISLATION  
AMENDMENT (PARENTAL RIGHTS) BILL 2020**

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**Date Received:** 18 February 2021

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**SUBMISSION BY GREG HORNE,  
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TO THE EDUCATION LEGISLATION AMENDMENT  
(PARENTAL RIGHTS) BILL 2020  
18 FEBRUARY 2021**

*[Please note: this submission dated 18 February 2021 is my final draft.  
Please disregard and delete the earlier version dated 9 February 2021]*

I make this submission based on my professional experience, having worked for the NSW Education Department as a school counsellor and psychologist for more than 30 years.

I oppose this bill as it is based on beliefs that are not supported by current professional knowledge or clinical experience. The bill would impede the delivery of essential mental health services to students and could, in the worst case, result in lasting harm to students. The proponent of the bill defends it using illogical statements. The bill requires practices to be undertaken in schools that are unnecessary and unworkable. The bill undermines the central aim of education, which is to equip young people to participate effectively in the society they are entering, a society which, for many years now, has used popular media to explore the issues surrounding gender identity.

## **Gender incongruence is a health problem rather than a matter for political debate**

In his second reading speech on 5 August 2020, Mark Latham declared his opposition to "gender fluidity" which he described as: "... a belief that there is a difference between biological sex—including people who are, by their chromosomes, male or female but are born with disorders of sexual differentiation—and human gender, and that human gender is socially constructed rather than being equivalent to a person's biological sex".

(see <https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/'HANSARD-1820781676-82418'>)

In my clinical experience, there are a small number of students (I can recall 3 during my career) who don't feel that their gender matches the biological sex they were assigned at birth. The Diagnostic and Statistical Manual of the American Psychiatric Association Fifth Edition (2013) includes a diagnosis of Gender Dysphoria that applies to such students. The DSM-5 notes that:

"The need to introduce the term "gender" arose with the realization that...some individuals develop an identity as female or male at variance with their uniform set of classical biological indicators. Thus, gender is used to denote the public (and usually legally recognized) lived role as boy or girl, man or woman, but, in contrast to certain social constructionist theories, biological factors are seen as contributing, in interaction with social and psychological factors, to gender development ... Gender dysphoria refers to the distress that may accompany the incongruence between one's experienced or expressed gender and one's assigned gender." [p.451]

The DSM-5 then goes on to list the criteria needed to identify the existence of Gender Dysphoria in children, adolescents and adults and identifies a prevalence in the population of less than one percent. It notes that:

"Adolescents and adults with gender dysphoria before gender reassignment are at increased risk for suicidal ideation, suicide attempts, and suicides...In older children, failure to develop age-typical same-sex peer relationships and skills may lead to isolation from peer groups and to distress. Some children may refuse to attend school because of teasing and harassment or pressure to dress in attire associated with their assigned sex. Also in adolescents and adults, preoccupation with cross-gender wishes often interferes with daily activities. Relationship difficulties, including sexual relationship problems, are common, and functioning at school or at work may be impaired. Gender dysphoria, along with atypical gender expression, is associated with high levels of stigmatization, discrimination, and victimization, leading to negative self-concept, increased rates of mental disorder comorbidity, school dropout, and economic marginalization, including unemployment, with attendant social and mental health risks, especially in individuals from resource-poor family backgrounds...Clinically referred children with gender dysphoria show elevated levels of emotional and behavioral problems—most commonly, anxiety, disruptive and impulse-control, and depressive disorders." [p.454-459]

Gender Incongruence also appears as a condition in the International Statistical Classification of Diseases and Related Health Problems (ICD-11) published online by the World Health Organization (see Gender Incongruence of Childhood at <https://icd.who.int/browse11/l-m/en#/http%3a%2f%2fid.who.int%2fcd%2fentity%2f344733949> and Gender Incongruence of Adolescence and Adulthood at <https://icd.who.int/browse11/l-m/en#/http%3a%2f%2fid.who.int%2fcd%2fentity%2f90875286>).

It is clear that Mark Latham's belief that "human gender...is equivalent to a person's biological sex" is completely at odds with the diagnosis of Gender Dysphoria in the DSM-5 and Gender Incongruence in the ICD-11. But who should be guiding educators and mental health practitioners in the school system, and the community generally – a politician from a minor party in the upper house or the consensus of medical and health professionals around the world, as reflected in the diagnostic classification manuals of the American Psychiatric Association and the World Health Organisation?

Arguably, Australia's success in responding to the COVID-19 pandemic has arisen because the community followed the lead of health experts, that is, intelligent professionals with vast knowledge gained from thousands of hours of study in their specialised field. As our economy recovers, our community appears to be finally taking direction from experts in climate science as investments in renewable energy are increasing (see <https://www.nsw.gov.au/media-releases/energy-superpower-plan-to-turbocharge-renewable-energy-zones-and-pumped-hydro>). When it comes to the health and education of our children, we should also be guided by the informed opinions of medical and health experts and not the ideologies expressed by contrarian politicians.

The need to follow the expert advice is even greater when all of the risk factors cited above are considered. As teachers and school counsellors we have a duty of care to protect students who experience gender incongruence from the negative consequences that could arise, including suicide, self-harm, bullying, exclusion, discrimination, isolation, non-attendance, anxiety and depression. School staff could, however, find themselves unable to fulfil their duty of care, and thus in a position of ethical conflict, if this bill was introduced. Suppose a student presented to the school counsellor with thoughts of suicide after they had disclosed feelings of gender incongruence and been rejected by their parents and friends. Should the school counsellor follow the directions of their employer and "not teach gender fluidity" while speaking with the student, thereby inadequately addressing the causes of their distress and greatly increasing the risk of suicide? Or should the school counsellor follow their standard professional practices (such as listening empathically; providing accurate and relevant information on gender incongruence; suggesting referral pathways for immediate and long-term assistance; and being available to support the student as their relationships with family and friends continued to evolve) only to find that the Department would then revoke their accreditation and terminate their employment?

We should also consider the potential legal problems arising if a student actually committed suicide after receiving inadequate support from a school counsellor who followed the restrictions to service required by their employer rather than the best practice guidelines of their profession. A precedent already exists in the tragic case of Alex Wildman, a student who took his own life in 2008 after bullying at two state schools. In 2010, the Deputy State Coroner concluded that failures in the Department's policies and counselling services contributed in part to Alex's death. In a subsequent civil case seeking compensation for negligence in 2012, it was reported that "The department has agreed to pay the family a six-figure sum believed to be nearly \$1 million" (see <https://www.smh.com.au/national/nsw/bullied-teens-family-get-payout-over-death-20120316-1vajd.html> and <https://www.northernstar.com.au/news/anti-bullying-policies-failed-alex-wildman-suicide/560228/>). It is worth considering whether legal liability could be extended from the Department as the employer to include any school counsellor who failed in their duty of care or even to the elected representatives who introduced laws knowing the risks of harm that could arise. These potential legal problems would not arise if the bill was defeated.

It should be clear from the descriptions above of the work of the school counsellor that Mark Latham's portrayal of "school counsellors telling their children that gender is a choice" or "...that gender is as fluid as water and that they can be a boy one day and a girl the next" are poorly informed simplifications of complex work, which are disrespectful to the professionals involved and unhelpful in the discussion. Similarly, describing school staff as "... strangers in the lives of families" is an offensive misrepresentation of the care and attention displayed by school staff who have dedicated their careers to the holistic development of their students, which includes growth in both academic learning and personal wellbeing.

## Illogical statements

In his second reading speech, Mark Latham says to schools: "... do not confuse our children about the fixed biological reality of gender in that, **other than a small number of cases**, people are born male or female" [emphasis mine]. If the biological reality of gender is fixed, how can there possibly be a small number of cases in which it is not fixed? By acknowledging the small number of cases in which "...some individuals develop an identity as female or male at variance with their uniform set of classical biological indicators" Mark Latham has unwittingly conceded that gender is not uniformly fixed to biological reality in every human. Perhaps the person confusing our children is Mark Latham himself.

## The Department already informs parents and respects their rights

In his second reading speech, Mark Latham seeks to introduce "matters of parental primacy" into legislation, which "...means, in relation to the education of children, moral and ethical standards, political and social values, and matters of personal wellbeing and identity, including gender and sexuality...No child at a government school is to be required to receive any instruction in matters of parental primacy if the parents of the child object to the child's receiving that instruction...At the beginning of each school year, all government schools must provide a summary of the content being taught in relevant courses of study about matters of parental primacy by publishing that summary on the school's website and notifying parents".

Perhaps Mark Latham should have acquainted himself with some of the information already publicly available on the NSW Department of Education's website. There is a section on Values in NSW Schools at [Values in NSW public schools | Policy library](#)

The policy states:

"Schools in NSW share with families and the community the responsibility for teaching values. While values are learnt predominantly in the home and modified through relationships and life experiences, parents and the community have high expectations about commonly held values also being taught in schools...

Public schools...provide students with opportunities to explore the values that lie behind diverse community attitudes to political issues and social concerns...

This NSW approach to values education involves community consultation, statements of values, school programs and teaching and learning strategies that demonstrate how to make values explicit in a range of learning contexts. A national and international review of literature supports this approach...

The approach to values education in NSW underpins every area of school life in our public schools...The core values...represent the aspirations and beliefs of the Australian community as a whole...They are common to a range of secular and religious world-views and are found in most cultures...

Schooling is also about the future. Our community looks to today's students to determine the world of tomorrow...

This document is the result of two years of work with parents, teachers, principals and school communities. The contribution of the Federation of Parents and Citizens' Associations of NSW, NSW Teachers Federation, Primary Principals' Association, Secondary Principals' Council and the Public Education Council is appreciated and acknowledged."

Clearly then, the NSW Education Department already acknowledges that "values are learnt predominantly in the home". The Parents and Citizens Association has been consulted throughout the process of identifying the nine core values. The NSW approach to values education, which is supported by national and international research, involves explicit teaching of values which are embedded in every aspect of school life.

It is this permeation of the nine core values into every aspect of school life that makes Mark Latham's suggestion of an annual publication of gender-related lesson content pointless. Gender-related discussions could occur outside the classroom, for example when resolving conflicts between students. Imagine a scenario where a high school student who has declared to the school community that they identify as transgender is subsequently assaulted by a gang of school bullies. As well as consequences for the bullies, part of the resolution to this incident could involve educating the bullies about the realities of gender incongruence and reinforcing values such as demonstrating empathy, care and respect for others; opposing prejudice and injustice; and having regard for diversity in Australian society. Why should gender-related discussions be off-limits when introducing them could be a powerful, effective and therapeutic way to resolve interpersonal problems?

Mark Latham could also acquaint himself with the general overviews of course content available online. In the Personal Development, Health and Physical Education K-10 syllabus for example (see [Content strands | NSW Education Standards](#)), he would find that contexts such as "personal identity ... relationships ... sexuality and sexual health" are covered in age-appropriate ways. In the Year 12 English Module A: Language, Identity and Culture (see [Modules | NSW Education Standards](#)) he would find that:

"Language has the power to both reflect and shape individual and collective identity. In this module, students consider how their responses to written, spoken, audio and visual texts can shape their self-perception. They also consider the impact texts have on shaping a sense of identity for individuals and/or communities. Through their responding and composing students deepen their understanding of how language can be used to affirm, ignore, reveal, challenge or disrupt

prevailing assumptions and beliefs about themselves, individuals and cultural groups...Students also experiment with language and form to compose imaginative texts that explore representations of identity and culture, including their own."

Rather than every school taking extra time to publish the specific content used to teach syllabuses such as these, even when ultimately no parent in the school community has any objections, it would be more efficient for the curious or objecting parent to initiate contact with the principal and relevant head teachers and class teachers and clarify the specific course content. It may be possible for course content to be adjusted, particularly if there are a number of parents with similar objections. It may be possible for an identified student to receive individual programming. Or if no satisfactory solution can be found, the parent could seek enrolment for their child in another school community that is more compatible with their beliefs.

These steps for objecting parents are consistent with the Controversial Issues In Schools- Procedures (see <https://policies.education.nsw.gov.au/policy-library/policies/controversial-issues-in-schools/controversial-procedures.pdf>). These procedures recognise that:

"Students and teachers face changing and complex societal situations. Particular topics covered in learning and teaching programs may be impacted on by events outside the school and become controversial in nature. Controversial issues are not static and are impacted by changing attitudes, world events and social values...

Controversial issues may be questions, subjects, topics or problems which create a difference of opinion, causing contention and debate within the school or the community. Controversial issues will differ across schools and communities...Teaching approaches to controversial issues need to be sensitive, objective and balanced. They should ensure that a range of views on a subject are taken into account in designing suitable learning programs...

Parents and carers need to be advised of the specific details of school activities, programs or events addressing controversial issues and the relevance to the curriculum and school programs and activities. Where advice is appropriate, it must be given prior to the occasion so parents and carers can provide consent or withdraw their child from a particular session(s) on controversial issues. The parental right to withdraw their child must be respected."

But the question arises: are discussions of gender identity currently controversial? How many parents in the community generally, and in each specific school community, share Mark Latham's views that human gender is equivalent to a person's biological sex?

## **Gender identity issues are frequently discussed in popular media available to our children**

A casual survey of popular media reveals the normalising of discussions of gender identity and the availability of these narratives to school-aged children. Think about Caitlyn Jenner. Initially known as Bruce Jenner, she rose to fame during 2007 while appearing in the popular reality television show *Keeping Up With The Kardashians*. "Assigned male at birth, Caitlyn Jenner publicly came out as a trans woman in April 2015...From 2015 to 2016, Jenner starred in the reality television series *I Am Cait*, which focused on her gender transition...Jenner has been called the most famous transgender woman in the world." (see [https://en.wikipedia.org/wiki/Caitlyn\\_Jenner](https://en.wikipedia.org/wiki/Caitlyn_Jenner)). Are such popular and well-known figures in the lives of young people in the 2020's really presenting a false, distressing, offensive or controversial narrative that needs to be restricted or expunged from school settings?

Consider Georgie Stone. She is a 20-year-old "... Australian actress, writer and transgender rights advocate. At the age of 10, Stone was the youngest person to receive hormone blockers in Australia, which set a precedent that eventually changed the law that compelled transgender children and their

families to apply to the Family Court of Australia to access stage one treatment. She...is one of the most visible transgender individuals in Australia." (see [https://en.wikipedia.org/wiki/Georgie\\_Stone](https://en.wikipedia.org/wiki/Georgie_Stone)). She has appeared nationally on ABC television in shows including Four Corners, Australian Story and a series called "Advice to my 12-Year-Old-Self" which was aired on the dedicated children's channel ABC Me. She has appeared in shows on Network 10 during children's viewing time such as The Project (see <https://www.mamamia.com.au/the-project-safe-schools-coalition/>) and, most significantly, in 2019 she joined the cast of the popular and iconic soap opera Neighbours playing the show's first ever transgender character. Such programs airing on the ABC would have been vetted by editorial processes to ensure that they were compatible with views held broadly within the mainstream of Australian society and were suitable for children to view. Such programs airing on the commercial Network 10 would have the additional requirement of attracting and maintaining audiences to generate maximum advertising revenues. Programs such as these continue to be shown, reflecting ongoing support in the wider community.

Consider a Year 12 English student saying to his teacher "Miss, last night I used my smartphone to watch this great show called *You Can't Ask That* on ABC iView about transgender people (see <https://iview.abc.net.au/video/LE1517H003S00>). My grandad also told me I should watch this ABC show called *One Plus One* where Stan Grant talks to people about their identity and especially the episode with this transgender performer called Carlotta in it (<https://iview.abc.net.au/show/stan-grant-s-one-plus-one/series/0/video/NC2031H006S00>). Can I study these as audio-visual texts for my assessment in Module A: Language, Identity and Culture and share them with others in our class?". If Mark Latham's bill became law, the teacher would have to say "No. As a result of legislation passed in 2021, transgender issues can't be discussed by teachers in public schools". One can easily imagine the student saying "Never mind, Miss. I'll use my phone to show them to my friends at recess and I'll send them all the links". Such an example indicates the futility of Mark Latham's bill. While teachers can be directed to avoid certain topics, students who have grown up with information technology at their fingertips can easily access the internet 24/7 and engage in self-directed learning about any topic that interests them. Banning such topics for discussion in the classroom doesn't prevent students from accessing the material elsewhere but it does deprive them of the advice and support of their teachers in making sense of what they're watching.

These are just three examples from recent years found in mainstream media accessible to our children. Dozens more could be cited. It is the media that has led the community in this new exploration of diversity, not the schools. The controversy has abated years ago and gender identity issues are now part of the new normal in our social discourse. Why shouldn't these gender identity issues be discussed in a sensitive, respectful, informed and balanced way in schools, thus preparing all students better for the world they are entering?

## Is postmodernism really to blame?

Mark Latham lays the blame for these new perspectives on gender identity on postmodernism and poststructuralism, which were popular academic theories in the 1980s and 1990s. I'm sure that the medical and health professionals responsible for identifying gender incongruence as a condition in the clinical populations they treat would be surprised to know that Mark Latham regards them as "social engineers" who are "... part of the post-modernist attack on the nuclear family...[which is]... trying to unravel and remake our civilisation". In my observation, professionals such as psychiatrists, paediatricians, clinical psychologists and psychotherapists are traditionally conservative and their only motivations are to help the needy directly and to develop greater understanding and support for them in the wider community.

In scapegoating postmodernism and poststructuralism, Mark Latham appears to be aping the conservative rhetoric of the Canadian psychology professor Jordan Peterson, whose meteoric rise to fame began in 2016 when he opposed new Canadian discrimination laws designed to protect transgender people, saying he refused to be compelled to address transgender people by their preferred pronoun. Following in the murky wake of Jordan Peterson, all of Mark Latham's posturing

on so-called gender fluidity in schools may help to advance his political career but it contributes nothing to the health of this small marginalised community, who are simply asking the mainstream for a little understanding, support and inclusion.

Rather than lazily blaming postmodernism and poststructuralism for declining educational and social standards in the last 40 years, perhaps Mark Latham should focus on the damage done to the education system by neoliberal ideology during this time. Schools have been increasingly required to think, look and act like businesses with the highest priority being given to ruthlessly cutting costs. Regional organisational structures have been dismantled, creating an expertise vacuum and dumping workloads on schools far in excess of their resourcing. Staff are promoted through the system based on their ability to present well in CV's and interviews and build professional networks rather than their ability to demonstrate their competence directly to senior staff. The private enterprise culture of competing for scarce promotion positions has the unfortunate side-effect of generating productivity-sapping conflict between staff which occurred much less when promoted staff waited patiently on a list for their desired position to be offered to them. The increasing numbers of teachers employed on temporary or casual contracts has transformed teaching from a respected vocation into just another precarious job, where employment uncertainty generates debilitating anxiety and inhibits professional autonomy and creativity. It is the neoliberal culture which prioritises cost-cutting, competition and contract work that has diminished the competence, collaboration, and confidence that our education system once displayed. Ultimately, education produces the best outcomes when it is treated as a public service which brings growth to the entire community from a stable workforce rather than as a competitive business that emphasises financial gain and rigid control of employees through precarious contract work.

## Conclusion

In conclusion, it is clear that the Parental Rights Bill 2020 introduced by Mark Latham suffers because it is not based on current knowledge and professional experience in matters of gender incongruence and public education in NSW. It suffers because it ignores the growing mainstream consensus in Australian society which seeks to better understand and support people experiencing gender incongruence, appearing instead to be guided by an outdated ideological perspective. To return to this position would be a retrograde step.

In the interests of the health and education of individuals and the community as a whole in NSW, this bill should be opposed.

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**18 FEBRUARY 2021**

