

# **Civil Partnerships Bill 2011**

**Report No. 7**

**Legal Affairs, Police, Corrective Services and  
Emergency Services Committee**

**November 2011**

## **Legal Affairs, Police, Corrective Services and Emergency Services Committee**

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### **Acknowledgements**

The committee thanks those who briefed the committee, made submissions, gave evidence and participated in its examination.

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<sup>1</sup> The committee consists of six members. Ms Carolyn Male MP, Ms Grace Grace MP, Mrs Julie Attwood MP, and Mr Murray Watt MP were appointed to the committee at various times during the course of this inquiry to replace members pursuant to Standing Order 202.

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## Chair's Foreword

This is the first time legislation involving a matter of conscience has come before our new committee system. For the first time in Queensland's history, members of the public have had the opportunity to address a high profile public hearing of a parliamentary committee tasked with drafting a report which all Honourable Members can use to inform their consciences before voting in the House. It has been a privilege to preside over this groundbreaking exercise in participatory democracy.

The unprecedented extent of public response, and the extra meetings, paperwork and consultation have called for an unprecedented effort from MPs on the committee, committee staff, Hansard reporters and other Parliament House staff. All have risen to the occasion, and I thank them all for going the extra mile. Most of all I thank the members of the public of Queensland who took the trouble to share with us their thoughts and arguments on both sides of the issue. The value of these contributions was maximised because of the respectful attitude all participants maintained towards each other, notwithstanding the fundamental issues that divided them.

The standing orders require us to recommend either that the bill be passed or not passed. This is a pity: such a recommendation will be irrelevant to those members who will be exercising a conscience vote, and will be making their minds up individually. For them what will be most useful will be a balanced report of the arguments brought to the attention of the committee by the various witnesses and by the many submissions. So that is what we have attempted to provide, even though the vehicle by which standing orders require us to deliver it is of necessity a recommendation that the bill be passed. Standing orders ought to be amended to allow a committee simply to refer a bill to the consciences of Honourable Members in such circumstances.

For me, the most compelling argument in favour of the legislation was put to the committee by the Very Reverend Dr Peter Catt, Chair of the Social Responsibilities Committee of the Anglican Church. He spoke of a man admitted suddenly to hospital with a medical event that would shortly take his life. Because his partner of many years could not be recognised as his next of kin, and because the family member who was recognised as his next of kin did not approve of his partner, his life partner was excluded from the hospital room and did not get to see him before he died. The point is that who, as a matter of law, has a legally recognised relationship with a person, becomes crucially important at times of extremity. When someone dies intestate, or when they lose capacity either temporarily or permanently, or when they are on their deathbed, compassion requires that their life partner have the most solid legal status society can provide.

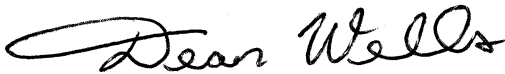
The strongest argument I heard against the legislation related to the upbringing of children. This argument was deployed at the hearing by the Australian Christian Lobby, the John Paul II Research Centre (of the Catholic Church), and a number of other churches and family oriented organisations. The argument was in essence that children were better off in a traditional family situation, with a mother and a father who were happily married, and therefore society should not establish institutions that encourage people to settle for anything less.

This argument is intuitively appealing, and probably would appear as common sense to most people (though there were others at the hearing who disagreed, and the committee considered research that challenged the claim). However, for the sake of the analysis, let us assume that it is correct and that children are in fact better off being brought up in the traditional family unit. That still leaves us with the question as to what to do about the children who do not have the fortune to be born into those circumstances. In my electorate alone there are many hundreds of children who are living in families where the parents, for whatever reasons, and whatever the gender of those parents, are not married and are not going to be. Would those very real children with very real lives be better off if their parents were in a civil partnership, or if they were just hanging out together, as they are now? I

asked this question at the hearing, and did not get a complete response. But the answer is obvious. On the whole, most of those children would be better off if their parents were in a civil partnership.

The job of legislators is to look after those children. The work of community groups, whether religiously inspired or not, that seek to advance the welfare of children by encouraging their parents into beneficial pathways and positive roles is enormously socially useful work. But a parliament has to govern the people in the circumstances in which they actually are, not the circumstances in which they might have been. The reality is that some at least of the many thousands of children across Queensland whose parents are not married, and are not going to be, would be better off if their parents had the option of entering a civil partnership.

I commend the report to the House.

A handwritten signature in black ink that reads "Dean Wells". The signature is written in a cursive, flowing style.

Hon Dean Wells MP  
**Acting Chair**

## Abbreviations

BDMR	Births, Deaths and Marriages Registry.
Department	Department of Justice and Attorney-General.
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex.
Registrar, or registrar-general	Registrar-general appointed under the <i>Births, Deaths and Marriages Registration Act 2003</i> .
Registry	Births, Deaths and Marriages Registry.
QCAT	Queensland Civil and Administrative Tribunal.
QCCL	Queensland Council for Civil Liberties.
QLS	Queensland Law Society.
Transcript, 4 November 2011	Public Briefing, Legal Affairs, Police, Corrective Services and Emergency Services Committee, <i>Examination of the Civil Partnerships Bill 2011, Transcript of Proceedings</i> , 4 November 2011.
Transcript, 10 November 2011	Public Hearing, Legal Affairs, Police, Corrective Services and Emergency Services Committee, <i>Examination of the Civil Partnerships Bill 2011, Transcript of Proceedings</i> , 10 November 2011.

## Recommendations

Standing Order 132 states that a portfolio committee report on a Bill is to indicate the committee's determinations on:

- whether to recommend that the bill be passed
- any recommended amendments
- the application of fundamental legislative principles and compliance with the requirements for Explanatory Notes.

<b>Recommendation 1</b>	<b>page 4</b>
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The committee recommends that the Civil Partnerships Bill 2011 be passed.



## 1 Introduction

### 1.1 Role of the committee

The Legal Affairs, Police, Corrective Services and Emergency Services Committee (the committee) is a statutory committee established on 16 June 2011 by the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly (the Standing Orders).<sup>2</sup> The committee's primary areas of responsibility include Attorney-General and Justice (excluding Industrial Relations), Fair Trading, Police, and Community Safety.<sup>3</sup>

Section 93 of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for considering:

- the policy to be given effect by the Bill, and
- the application of the fundamental legislative principles to the Bill.

The Civil Partnerships Bill 2011 (the Bill) is a private member's bill introduced by Hon. Andrew Fraser MP, Member for Mt Coot-tha on 25 October 2011. It was referred to the committee on 26 October 2011. The committee was required to report to the Legislative Assembly by 21 November 2011.

### 1.2 Consultation

On 27 October 2011, the committee called for written submissions by 4 November 2011. The committee held two public hearings on the Bill; a public briefing with Hon. Fraser MP, Member for Mt Coot-tha, and a public hearing at Parliament House, Brisbane, on 10 November 2011. A list of the witnesses at the hearing on 10 November 2011 is at **Appendix B**. The transcripts of the public briefing and the public hearing are available on the committee's website at [www.parliament.qld.gov.au/lapcsesc](http://www.parliament.qld.gov.au/lapcsesc).

A number of submitters and witnesses stated that the timeframe for the public consultation and committee examination on this Bill was insufficient. Submitters, both in opposition to and in support of the Bill, noted the short timeframe for public consultation.

Submissions suggested that a longer period of consultation is necessary for Queenslanders to be properly consulted on the implications of the Bill and called for a referendum on whether it be passed.<sup>4</sup> It is important to note that the Bill is a private member's Bill; it is not a Government Bill and there is, therefore, no option open to put the Bill to a referendum.

Despite the short reporting and consultation timeframe, the committee received 2737 submissions by the close of submissions on 4 November 2011. Additionally, the committee continued to receive a large number of submissions after the closing date. At the time of drafting this report the committee had received nearly 6000 submissions on this Bill. The vast majority were provided by email.

At the public hearing on the Bill, one witness was concerned that the committee would receive many submissions from people who reside outside of Queensland, who are not connected with Queensland and who would not be affected by the proposed legislation, and queried how the committee would deal with submissions where the place of residence of the submitter was not clear.<sup>5</sup>

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<sup>2</sup> *Parliament of Queensland Act 2001*, s.88 and Standing Order 194.

<sup>3</sup> Standing Orders, Schedule 6.

<sup>4</sup> The committee received 164 submissions (very similar in form and content), many of which called for more time to consider the Bill or called for a referendum.

<sup>5</sup> Wendy Francis, Australian Christian Lobby, *Transcript*, 10 November 2011, at 4.

The committee is cognisant of the increased use of email to engage with the Parliament and its committees. It is often the case that submissions from individuals are submitted by email and do not contain a residential address. The committee notes the concern regarding submissions received from outside Queensland. As the Bill would recognise civil partnerships registered in another State or country, it is likely that the Bill will affect people who currently live outside of Queensland and who may relocate to Queensland in the future, or who have a civil partnership registered in another jurisdiction. It is also common practice for parliamentary committees to seek information, by way of submissions, from experts and relevant stakeholders in other jurisdictions.

Further, when considering submissions, the committee considers the reasons provided for a submitter's proposition, not solely the number of submitters supportive or opposed to the Bill.<sup>6</sup> [The statistical information on the number of submissions in support of or opposed to the Bill and the number of form submissions, and the number of submission which included a residential address is included at **Appendix A.**]

To this end, the committee has carefully considered all submissions, taking careful note of whether they were received on or before the closing date, whether they have an address or not. All submissions received both before and after the closing date were made available for members' consideration. However, the committee considers that, in future, committees should ensure that they are aware of any campaigns which may generate form-letter submissions which may be provided by interstate or overseas submitters. This could be achieved by a simple auto-reply email to request that submitters provide an address if they have not already done so.

### 1.3 Policy objectives of the Civil Partnerships Bill 2011

The objectives of the Bill are to provide legal recognition and registration of relationships of couples, regardless of gender, to be known as civil partnerships. The Bill would provide an option, prior to registration of the civil partnership, for couples to make a declaration of their intention to enter into a civil partnership before a registered notary. The Bill also provides for the termination, and the registration of the termination, of civil partnerships and for the recognition of interstate civil partnerships or civil unions as civil partnerships for the purposes of Queensland State legislation.

The Bill would make consequential amendments to 21 Acts to give effect to the civil partnership scheme. A list of the Acts the Bill proposes to amend, contained in Part 6 of the Bill, is at **Appendix C.**

In his introductory speech, Hon. Fraser MP stated that the Civil Partnerships Bill:

*...is a landmark step for this parliament and, more importantly, for the breadth of the community we represent. It achieves two important milestones that in 2011 many couples take for granted. Firstly, it provides a mechanism for couples, of the same or opposite sex, to declare their relationship before family and friends in a civil partnership ceremony and, secondly, it provides a relationship registration scheme for both same and opposite sex relationships.*<sup>7</sup>

*...is a bill that provides for a reform for which the time has come. It is a step towards equality, towards inclusion, towards truth and towards the realisation of the legitimate aspirations of thousands and thousands of Queenslanders, their partners, their families and their friends. That must not be a project that should ever be delayed.*<sup>8</sup>

<sup>6</sup> See Hon. Dean Wells MP, Mr John-Paul Langbroek MP and Ms Carolyn Male MP, *Transcript*, 10 November 2011, at 4.

<sup>7</sup> Hon. Andrew Fraser MP, *Record of Proceedings*, Tuesday 25 October 2011, Queensland Legislative Assembly, at 3361.

<sup>8</sup> Hon. Andrew Fraser MP, *Record of Proceedings*, Tuesday 25 October 2011, Queensland Legislative Assembly, at 3362.

## 1.4 Should the Bill be passed?

### 1.4.1 Arguments raised in submissions

The committee's examination of the Bill, despite its short timeframe, generated significant community debate on the policy behind the Bill. Of the 2737 submissions received by the closing date, there were strong opinions both in support and in opposition to the Bill. [The main arguments of the submitters are briefly outlined below and discussed further at sections 4 and 5 of this report.]

Of the 537 submissions which did not support the Bill, the main arguments were that:

- the State parliament has no jurisdiction to legislate for marriage as this is a Federal matter.
- the Bill mimics marriage and would devalue the institution of marriage between a man and a woman by allowing both same-sex and opposite-sex couples to register their relationships in a very similar manner to that of marriage.
- only a male and a female are capable of naturally producing healthy, well adjusted children and the Bill will lead to confusion for children raised by same-sex parents, as children require both a mother and a father.
- the 2002 Queensland legislative amendments, and legislative amendments at the Federal level in 2008, to recognise same-sex de facto relationships removed any discrimination faced by same-sex couples as their defacto relationships are now legally recognised for matters such as superannuation and property law.
- the Bill is discriminatory as it limits registration of civil partnerships to couples only and does not recognise the multitude of relationship configurations in our society (for example aged siblings, or illegal polygamous or incestuous relationships).
- civil partnerships are not an acceptable compromise for some advocates of same-sex marriage.
- if the Bill is passed, marriage celebrants with religious convictions will not be able to refuse to conduct a civil partnership ceremony without being charged with discrimination despite it being against their personal religious beliefs on marriage.
- the Bill is long and complex, and of such social significance, that it requires a longer period for Queenslanders to consider it; many submitters also called for a referendum on whether the Bill should be passed.

Of the 2195 submissions which supported the Bill, the main arguments were that:

- the Bill would recognise human rights by providing the option of legal recognition of couples' relationships beyond what is provided by the recognition of de facto relationships in both State and Commonwealth legislation, for both same-sex and opposite-sex couples as a couple will no longer have to prove the relationship after the fact; e.g. at distressing times such as upon the hospitalisation of a partner to prove that they are the next of kin.
- the Bill will remove discrimination and provide the option for couples who do not want to, or who cannot, marry to register a civil partnership.
- while the Bill does not provide marriage equality for same-sex couples, it is acceptable at the State level because it is as far as the State can go in recognising same-sex relationships.
- the registration of committed relationships between same-sex couples will lead to increased social acceptance of, and respect for, same-sex relationships.
- the option to have a symbolic ceremony or declaration of the civil partnership is important for couples to celebrate their relationship and commitment with friends and family.

#### 1.4.2 *The nature of the committee's recommendation*

The committee notes that, as currently worded, Standing Order 132(1) provides two options for a committee's recommendation on a Bill: either the Bill be passed or that the Bill not be passed.

This is the first issue which has arisen since the introduction of the new committee system in which a majority, at least, of Members of the House will have a conscience vote. The committee notes that the Standing Orders which govern the new committee system are somewhat rigid in this respect and the committee does not believe that they were drafted with issues like this in mind.

In the view of the committee, when issues of conscience arise, especially if all Members of the House have a conscience vote, it is rather artificial to have the committee vote on whether a bill be passed or not. For example, a majority of the committee may be in opposition to a proposal for which there may be a majority of support on the floor of the House.

The real value to our democracy provided by the new committee system is not in a recommendation made by a committee as to whether the bill should be passed or not. After all, in most cases the government, and therefore a majority of Members, will be committed to some form of all government bills at least, once introduced. The main benefit is in the analysis of the issues, and in the fact that any member of the community can, through the public consultation, have their arguments for or against the Bill drawn to the attention of all Members of Parliament through the tabled report of the committee. This benefit is magnified in the case of issues giving rise to a conscience vote by virtue of the fact that a member of the public can speak at the public hearing, their views can be noted in the report, and thus their voice can be heard by every Member of Parliament reading the report. On matters where there is a conscience vote, members of the public can speak through the committee process, to the conscience of every Member of Parliament.

The requirement in the Standing Orders that committee members cast, in this case, an essentially meaningless vote on whether the bill should be passed dilutes this advantage. The credibility of the report, as a vehicle for conveying the arguments for and against the proposal, is affected.

For this reason, the committee believes that Standing Orders should be amended so as not to require that committees support or oppose every bill they examine. The committee believes that there should be at least one other option whereby the committee could refer the bill, and the public's contributions on the bill, to the consciences of the honourable Members.

Given, however, that this option was not available to the committee, the committee divided and supported the Bill by a majority.

Pursuant to s. 92 of the *Parliament of Queensland Act 2001* and Standing Order 132, the committee recommends that the Bill be passed and notes, pursuant to Standing Order 134(2) that this recommendation was supported by a majority of the committee.

**Recommendation 1**

The committee recommends that the Civil Partnerships Bill 2011 be passed.

## 2 Background

### 2.1 State jurisdiction to legislate for civil partnerships

Section 51(xxi) of the Australian Constitution provides that the Commonwealth Parliament may legislate for marriage. The *Marriage Act 1961* (Cth) provides the legislative scheme. Section 5 of the *Marriage Act* defines marriage as *the union of a man and a woman to the exclusion of all others, voluntarily entered into for life*.

The Queensland Parliament does not have jurisdiction to legislate for marriage. As noted earlier, the Bill would allow for the registration of civil partnerships between two consenting adults who meet the eligibility criteria. As noted by the Queensland Law Society (QLS), in providing legal recognition of relationships through a civil register, the Bill would not provide for marriage, and is within the constitutional power of the Queensland Parliament.<sup>9</sup>

On this point, Hon. Fraser MP stated:

*Marriage, of course, is reserved constitutionally in this country to the federal parliament and there is no capacity constitutionally for any state to impinge upon that. That is the undeniable legal truth. The desirability of the pursuit of equality is, of course, a separate debate, and the partnerships bill that has been introduced into the parliament merely reflects the capacity of a state parliament to recognise the truth of human relationships.*<sup>10</sup>

Civil partnership regimes have been enacted in Tasmania, Victoria, the Australian Capital Territory and New South Wales (discussed further in **Appendix D**).

### 2.2 De facto relationships

#### 2.2.1 Queensland

Part 19 of the *Property Law Act 1974* was inserted in 1999 to recognise the property rights of opposite-sex couples in a de facto relationship.<sup>11</sup> The objectives of the Property Law Amendment Bill 1999 were to:

- *facilitate the resolution of financial matters at the end of a de facto relationship;*
- *recognise de facto spouses should be allowed to plan their financial future, and resolve financial matters at the end of their relationship, by a cohabitation or separation agreement;*
- *facilitate a just and equitable property distribution at the end of a de facto relationship in relation to the de facto spouses and, in particular cases, any child of the de facto spouses;*
- *provide for declaratory relief to help persons ascertain their existing interests in property of de facto spouses;*
- *provide for injunctive relief to help persons protect their existing and adjusted interests in property of de facto spouses;*
- *provide for declaratory relief about the existence or non-existence of a de facto relationship and so help persons avoid the duplication of proceedings where the existence or non-existence of a de facto relationship is relevant in 2 or more proceedings;*
- *facilitate the resolution of matters concerning a de facto relationship by the Supreme Court, the District Court or a Magistrates Court.*<sup>12</sup>

<sup>9</sup> Bruce Doyle, President, Queensland Law Society, *Transcript*, 10 November 2011, at 54.

<sup>10</sup> Hon. Andrew Fraser MP, *Transcript*, 4 November 2011, at 2.

<sup>11</sup> Property Law Amendment Act 1999, s.7.

<sup>12</sup> Property Law Amendment Bill 1999, Explanatory Notes at 1.

Section 4 of the *Discrimination Law Amendment Act 2002* (Qld) amended the *Acts Interpretation Act 1954* (Qld) to include a definition of 'de facto' as 'either 1 of 2 persons who are living together as a couple on a genuine domestic basis but who are not married to each other or related by family'.<sup>13</sup>

Section 4 of the *Discrimination Law Amendment Act* also provides that any reference to 'spouse' in any Act of Queensland prior to the commencement of that section includes a reference to a de facto partner as defined above, unless the Act expressly provides to the contrary.<sup>14</sup>

Witnesses at the public hearing advised that Queensland has a very robust and successful de facto legislative scheme.<sup>15</sup>

The QLS advised that, if passed, the Bill would not only amend the 21 Acts listed in Part 6 of the Bill, but would also mean that a civil partnership registered in Queensland will be a criterion for establishing a spousal relationship under approximately 100 pieces of Federal legislation.<sup>16</sup>

### 2.2.2 Commonwealth

Following a report by the Australian Human Rights Commission,<sup>17</sup> in 2008 and 2009 the Commonwealth Parliament amended 85 laws to eliminate discrimination against same-sex couples and their children in a wide range of areas including social security, taxation, Medicare, veteran's affairs, workers' compensation, educational assistance, superannuation, family law and child support.<sup>18</sup>

Additionally, in 2009 the Queensland Parliament referred the power to legislate for certain financial matters arising from the breakdown of a de facto relationship, pursuant to s. 51(xxxvii) of the Commonwealth Constitution.<sup>19</sup> The matters referred to the Commonwealth Parliament included financial matters relating to de facto partners arising out of the breakdown (other than by reason of death) of de facto relationships between persons of the opposite sex or between persons of the same sex.

### 2.2.3 Proving the existence of a de facto relationship

The QLS advised that of all the legislation which recognises de facto relationships, the *Family Law Act 1975* (Cth), which deals with the division of property between de facto spouses, is the most important:

*Currently, de facto spouses can only claim the benefit of that piece of legislation if they meet one of three criteria. The first is two years of cohabitation. The second is there might be children of the relationship. The third is that one has made a substantial contribution to the profit of the other and a failure to make an order would result in a serious injustice.*<sup>20</sup>

The QLS further advised that for a couple to establish the existence of a de facto relationship that couple must have lived together as a couple for at least two years. This means that a couple who may have lived together for less than two years will not be afforded the legal protections which surround de facto relationships.

<sup>13</sup> See *Acts Interpretation Act 1954*, s. 32DA

<sup>14</sup> *Discrimination Law Amendment Act 2002*, s. 4.

<sup>15</sup> See *Transcript*, 10 November 2011, Derek Cronin, Association for Healthy Communities, at 45; and Bruce Doyle, President, Queensland Law Society, at 53.

<sup>16</sup> Bruce Doyle, President, Queensland Law Society, *Transcript*, 10 November 2011, at 53.

<sup>17</sup> Australian Human Rights Commission, *Same-sex: Same entitlements*, Sydney, 2007

<sup>18</sup> Australian Government, Attorney-General's Department  
[http://www.ag.gov.au/www/agd/agd.nsf/Page/Humanrightsandanti-discrimination\\_SameSexReform](http://www.ag.gov.au/www/agd/agd.nsf/Page/Humanrightsandanti-discrimination_SameSexReform)

<sup>19</sup> Commonwealth Powers (De facto Relationships) Act 2003.

<sup>20</sup> Bruce Doyle, President, Queensland Law Society, *Transcript*, 10 November 2011, at 53.

### 3 Examination of the Civil Partnerships Bill 2011

The vast majority of the submissions to the committee addressed the policy to be given effect by the Bill. A small number of submissions commented on the technical aspects of the Bill. The issues raised in this context are outlined below.

#### 3.1 Cost of implementation

The committee sought advice on the costs to implement the civil partnership scheme proposed by the Bill. The Explanatory Notes to the Bill simply state that the costs associated with the implementation of the Bill will be met within existing resources.<sup>21</sup>

Hon. Fraser MP advised that the registration of civil partnerships would incur a fee for service and would not have an impact on the resources of the Registry. Additionally, he stated that the courts are more than able to contemplate the existence of civil partnerships as there would be no difference in the proposed rights for civil partners to the rights which arise in respect of de facto relationships. He stated further that, rather than place a burden on the courts, the existence of civil partnerships could provide efficiencies as the current de facto regime requires evidence to prove the relationship, usually after the fact, whereas a civil partnership would provide 'upfront' evidence of the existence of a civil partnership.<sup>22</sup>

The committee was aware that the Government considered the introduction of civil partnerships prior to Hon Fraser MP introducing the Bill as a private member.<sup>23</sup> The committee sought advice from the Department of Justice and Attorney-General on whether the Department had undertaken a cost analysis of the Bill. The Department advised that it had undertaken some work on the policy of the Bill when the introduction was considered by the Government but that it ceased its involvement in instructing on the Bill upon it being brought forward as a private member's bill.<sup>24</sup>

The Department advised that it had reviewed the Bill and identified the following matters which may have resource implications for the Department:

- the development and maintenance of a register of civil partnerships at the BDMR
- development and maintenance of a register of civil partnership notaries at the BDMR
- applications for review to the QCAT regarding decisions by the registrar-general to refuse to register, or to cancel the registration of, a civil partnership notary
- applications for review to QCAT regarding a decision by the registrar-general to refuse to register a civil partnership
- applications to the District Court for the termination of a civil partnership.

The Department estimated that the costs associated with developing a register of civil partnerships and civil partnership notaries (including the information technology system, training and consultation costs) would be approximately \$100,000. The Department further advised that a user-pays approach, consistent with other applications lodged with the BDMR, is expected to be implemented and will likely offset the implementation and operational costs.

Applications for review to QCAT from decisions by the registrar-general currently incur a filing fee. The Department advised that a similar approach regarding review applications under any civil partnership legislation may be appropriate to offset the review costs to QCAT.

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<sup>21</sup> Civil Partnerships Bill 2011, Explanatory Notes, at 3.

<sup>22</sup> Hon Andrew Fraser MP, *Transcript*, 4 November 2011, at 6 – 7.

<sup>23</sup> Hon Andrew Fraser MP, *Record of Proceedings*, Queensland Legislative Assembly, 27 October, at 3481.

<sup>24</sup> Philip Reed, Director-General, Department of Justice and Attorney-General, *Transcript*, 4 November 2011, at 9.

Further, the Department stated that applications filed with the District Court attract a filing fee and there is no reason to expect that this would not be the case for applications to terminate a civil partnership. The Department also considered that, whilst it is difficult to estimate the number of termination applications which will be lodged each year, there would not be an adverse impact on the District Court's ability to manage its workload.<sup>25</sup>

### 3.2 Amendment of the termination process

**Clause 18** would allow the court to make an order to terminate a civil partnership where the court is satisfied that:

- the applicants have lived separately and apart for a continuous period of at least 12 months, and
- the civil partnership has broken down and that there is no likelihood of a reconciliation between the parties.

The parties may be held to have lived separately and apart for 12 months even where they have lived in the same residence and even where either party has rendered some household services to the other.

Where a court order to terminate the civil partnership is made, the court must give a copy of the order to the registrar no later than 28 days after the order is made.

The Queensland Council of Civil Liberties (QCCL) suggested the following amendments to clause 18:

- a new clause 18(1)(c) should be added to state that a court may make an order terminating the partnership if it is satisfied that reasonable arrangements have been made for the day-to-day care and welfare of all dependent children to the partnership;
- a new clause 18(4) should be added to state that if the relationship lasts less than two years, a conciliation must be attempted before seeking a termination.<sup>26</sup>

Hon Fraser MP advised that, in relation to the first proposed amendment, the Family Court of Australia currently has jurisdiction to consider any disputes over custody or living arrangements upon the breakdown of de facto relationships and marriages, and that court's jurisdiction would extend to the breakdown of a civil partnership.<sup>27</sup>

The Family Law Practitioner's Association of Queensland Ltd (FLPA) advised that the Commonwealth jurisdiction, already established and administered by the Federal Magistrates' Court and Family Court of Australia, is best placed to consider parenting arrangements. The District Court would not have the jurisdiction to enforce any parenting arrangements following the breakdown of a civil partnership (except in extreme circumstances which would invoke the State child protection jurisdiction). The FLPA stated that the proposed amendment would lead to confusion and increased legal costs for couples who wish to terminate a civil partnership.<sup>28</sup>

In relation to the QCCL's proposal to insert clause 18(4) to mandate conciliation prior to the termination of a civil partnership of less than two years, Hon Fraser MP stated:

*The second amendment proposed by the QCCL would see the inclusion of subclause (4) under clause 18 of the Bill to encourage couples to undertake relationship counselling where their civil partnership has lasted less than 2 years. I am aware of the benefits that*

<sup>25</sup> Letter from Philip Reed, Director-General, Department of Justice and Attorney-General, 15 November 2011.

<sup>26</sup> Queensland Council for Civil Liberties, submission no. 1677, at 2; Michael Cope, Queensland Council for Civil Liberties, *Transcript*, 10 November 2011, at 46 - 47.

<sup>27</sup> Letter from Hon. Andrew Fraser MP, dated 16 November 2011.

<sup>28</sup> Letter from Deborah Awyzio, President, Family Law Practitioner's Association of Queensland Ltd, to Hon Andrew Fraser MP, dated 15 November 2011.



*relationship counselling can have in avoiding or managing the breakdown of a relationship and the policy rationale for encouraging couples to undertake counselling prior to achieving a termination of a civil partnership. There may, however, be issues associated with mandating a requirement.*<sup>29</sup>

The committee notes that a civil partnership is terminated if either party marries. The committee considers that the proposal to place impediments in the way of termination of a civil partnership, however well intentioned, does not fit well with the scheme of the Bill.

### 3.3 The name of the Births, Deaths and Marriages Registry

**The note to clause 6** states that the registrar must enter the particulars of a civil partnership into the register under the *Births, Deaths and Marriages Registration Act 2003*, Part 5A. [Part 6 of the Bill amends the *Births, Deaths and Marriages Registration Act 2003* to include Part 5A which would require the registrar to register civil partnerships.]

Some opponents of the Bill considered that the proposed requirement for civil partnerships to be registered alongside Births, Deaths and Marriages would unnecessarily elevate the status of civil partnerships to that of marriage.

*This bill that we have before us does mimic marriage. That is one of the things that I want to address. There are major and vital differences between marriage and other relationships. To put this particular civil partnership in the Registry of Births, Deaths and Marriages is a way of actually saying that we regard this as a marriage. Alternatively, I ask that the government might consider that they make it a different name by which it goes and add on 'civil partnerships'. If it does not, they run the risk of being charged with simply saying that these civil partnerships are indeed to be regarded as a marriage.*<sup>30</sup>

Suggested amendments included renaming the Births, Deaths and Marriages Registry to make it clear that civil partnerships are included as a separate category, or establishing a separate register for civil partnerships which could also include co-dependant relationships such as two ageing siblings.<sup>31</sup>

The committee notes the broader functions of the Registry of Births, Deaths and Marriages also includes registration of adoptions, change of name, same-sex parenting, surrogacy and reassignment of sex. The committee does not support any change to the name of the Registry to include the proposed function of civil partnership registration.

## 4 Arguments in opposition to the Bill

The main arguments raised in opposition to the Bill are set out below.

### 4.1 Marriage

The vast majority of the submissions which opposed the Bill did so, at least in part, on the grounds that the Bill provides for same-sex marriage, mimics marriage or undermines or devalues marriage. These arguments are explored below.

#### 4.1.1 The Bill would mimic marriage

Many opponents of the Bill considered that the Bill establishes a relationship scheme which for all intents and purposes provides for same-sex marriage by another name.

<sup>29</sup> Letter from Hon. Andrew Fraser MP, dated 16 November 2011.

<sup>30</sup> Geoffrey Bullock, Queensland State Officer, FamilyVoice Australia, *Transcript*, 10 November 2011, at 20.

<sup>31</sup> Geoffrey Bullock, Queensland State Officer, FamilyVoice Australia, *Transcript*, 10 November 2011, at 20; Australian Family Association, submission no, 1673, at 8.

*To summarise the shape of our concerns, the Civil Partnerships Bill mimics marriage. That is the key problem. This bill is intended to create as close a counterfeit as possible to marriage with its ceremonies, its celebrants, its amendments to the Births, Deaths and Marriages Registration Act and to the meaning of 'spouse'. This bill is a big step towards the full legal and moral equality of homosexual relationships with natural marriage, which is what the Hon. Andrew Fraser made clear in his second reading speech, declaring his contempt for the 'legal fiction' that distinguishes marriage from same-sex partnerships.<sup>32</sup>*

As noted earlier, marriage is a matter legislated for by the Commonwealth Parliament and s. 5 of the *Marriage Act 1961* (Cth) defines marriage as *the union of a man and a woman to the exclusion of all others, voluntarily entered into for life*.

In response to the argument that the Bill mimics marriage, Hon Fraser MP advised the committee that the Bill does not, and cannot, impinge upon the definition of marriage. He argues that it would provide a scheme to validate relationships which already exist and which already enjoy the many protections afforded by the de facto legislation (outlined at Section 2.2 above).<sup>33</sup> The FLPA stated:

*We see the purpose of the Bill as providing a mechanism for registering committed relationship for the same [sex] or heterosexual couples who don't want to or can't get married. These relationships are not marriage.<sup>34</sup>*

The Very Reverend Dr Peter Catt, Chair of the Social Responsibilities Committee of the Anglican Church, stated:

*One of the strengths of the bill is that it does not pretend to be interfering with marriage. It is not using any marriage-like terms. The way in which people register the partnerships is different to the marriage ceremony. I think it does a good job of keeping that distinction clear.<sup>35</sup>*

Opponents of the Bill argue that the Bill mimics marriage in the following ways:

#### 4.1.1.1 Eligibility criteria

**Clause 5** sets out the eligibility criteria: At least one partner must live in Queensland, and either person must not:

- be married or in another civil partnership,
- be in a prohibited relationship with the other party to the civil partnership.

A prohibited relationship includes a relationship between lineal ancestors, lineal descendents, siblings or half siblings.

The arguments around the eligibility criteria question why, if the Bill were to declare the end of the legal fiction of human relationships, as asserted by Hon Fraser MP in his introductory speech of the Bill to the House,<sup>36</sup> it does not also apply to friendships, carer relationships, polygamous, polyamorous, incestuous or adulterous relationships. Whilst not necessarily advocating for the

<sup>32</sup> Dr David van Gend, Family Council of Queensland, *Transcript*, 10 November 2011, at 28.

<sup>33</sup> Hon. Andrew Fraser MP, *Transcript*, 4 November 2011, at 2.

<sup>34</sup> Letter from the Family Law Practitioner's Association (Queensland) to Hon Andrew Fraser MP, dated 15 November 2011.

<sup>35</sup> The Very Reverend Dr Peter Catt, Social Responsibilities Committee of the Anglican Church of Australia, *Transcript*, 10 November 2011, at 41.

<sup>36</sup> Hon. Andrew Fraser MP, *Record of Proceedings*, Queensland Legislative Assembly, 25 October 2011, at 3361.

registration of these relationships, these submitters suggest that the Bill in fact discriminates against people in a range of relationships structures.<sup>37</sup>

Some of the relationships outlined by submitters in support of this argument, are illegal, such as incest. Same-sex and opposite-sex relationships are not illegal relationships. The Bill would provide legal recognition of couples, regardless of their gender; it would not provide legal recognition of illegal relationships.

#### 4.1.1.2 Ceremonial declarations

**Clause 11** would allow a couple to make a declaration of civil partnership before a civil partnership notary and at least one other adult witness. The declaration must be made by each person to the other and must contain a clear statement that names both persons and acknowledges that they freely enter the civil partnership with the other.

Opponents to the Bill considered that the provisions providing for a declaration of intent to enter into a civil partnership mimic the marriage ceremony, a special and unique sacrament which should be reserved only for marriage.

*The ceremony of marriage is a sacrament. It is a sacred thing. Even those who choose not to do it through the church see it as a very serious thing. I believe this bill cheapens that. This is an attempt to provide a ceremony under the guise of a registration.*<sup>38</sup>

#### 4.1.1.3 Termination

**Clause 14** would provide for three ways to terminate a civil partnership – the death of either party, the marriage of either party, or a court order under clause 18.

**Clause 15** would allow a termination of a civil partnership where the parties had lived separately and apart for a continuous period of at least 12 months, and one or both of the parties believes that the civil partnership has broken down and that there is no likelihood of a reconciliation.

A number of submitters considered that the requirement for a 12 month separation prior to the termination of a civil partnership mirrors the requirements of divorce to terminate a marriage.

#### 4.1.1.4 Civil partnership notaries

**Part 3 of the Bill** would provide for a scheme for registering civil partnership notaries to witness the declarations of intent to enter into a civil partnership under clause 11. Schedule 2 to the Bill would define a civil partnership notary as a person registered as a civil partnership notary or the registrar.

**Clause 20** would provide for registration as a civil partnership notary, who must:

- be an adult
- have the knowledge, skills and experience necessary to exercise the functions of a civil partnership notary, and
- be a suitable person to be registered as a civil partnership notary.

There were concerns amongst submitters and witnesses at the public hearing that current marriage celebrants would be required or forced to perform civil partnership declarations for same-sex couples, which may be against their religious beliefs.

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<sup>37</sup> See for example: Australian Christian Lobby, submission no. 1204, at 3; Australian Family Association, submission no. 1672, at 3; Christine Downey, submission no. 222, at 1; The Very Reverend Dr Adrain Farrelly, *Transcript*, 10 November 2011, at 8.

<sup>38</sup> Reverend Christopher Twinn, *Transcript*, 10 November 2011, at 12.

The committee notes that the Bill does not provide for marriage celebrants to witness declarations of intent to enter into a civil partnership. Therefore marriage celebrants would not be able to witness civil partnership declarations, and they would not be forced or required to do so.

#### 4.1.1.5 Amendment of the definition of 'spouse'

**Clause 40** would amend s. 36 of the *Acts Interpretation Act 1954* to include a civil partner in the definition of 'spouse'.

Some submitters opposed to the Bill considered that extending the definition of the term spouse in this manner would amount to a corruption of that term.<sup>39</sup>

As noted at 2.2.1 above, the QLS advised that the consequential amendments in Part 6 of the Bill would impact on approximately 100 pieces of Commonwealth legislation relating to the recognition of a civil partner as a 'spouse'. Further, the committee notes that the definition of 'spouse' under the *Acts Interpretation Act 1954* currently includes a de facto partner.

#### 4.1.2 *The Bill would undermine or devalue marriage*

Some submitters considered that the Government should focus on supporting and strengthening the institution of marriage instead of offering what they considered to be a lesser alternative.<sup>40</sup> The Australian Family Association argued that instead of correcting injustice, the Bill would create injustice by giving Queenslanders the impression that the State is required to validate private sexual relationships and that there is little value in male and female marriage, and that the Bill would create confusion amongst young people through the recognition and optional ceremony of civil partnerships.<sup>41</sup>

The National Marriage Coalition considered that the Bill is an attack on marriage as it provides a parallel structure for heterosexual couples which is a deterrent to marriage.<sup>42</sup> The National Marriage Coalition stated:

*The Bill introduces a third level of legally recognised personal unions in Queensland in addition to marriage and de facto relationships, thus multiplying the kinds of relationships recognised in the State and further diluting the significance of marriage.*<sup>43</sup>

Submitters also argued that the introduction of civil partnerships would devalue marriage through the promotion of promiscuous, non-committed relationships based on emotions and desire.<sup>44</sup> Other arguments included:

- that there is no requirement that the civil partnership be a life long commitment as it would be subject to a 10 day cooling off period (akin to a commercial contract),<sup>45</sup> and
- the Bill would recognise freedom of sexuality and celebrate diversity which are not the values of marriage, which are to uphold commitment, fidelity and the stable nurturing of children.<sup>46</sup>

The committee notes, again, that the Bill is not about marriage. It provides for registration of civil partnerships only.

<sup>39</sup> National Marriage Coalition, submission no 384, at 3.

<sup>40</sup> National Marriage Coalition, submission no 384, at 4.

<sup>41</sup> Australian Family Association, Queensland Branch, submission no 1673, at 7-8.

<sup>42</sup> National Marriage Coalition, submission no 384, at 1.

<sup>43</sup> National Marriage Coalition, submission no 384, at 2.

<sup>44</sup> Mrs Tempe Harvey, National Marriage Coalition, *Transcript*, 10 November 2011, at 23.

<sup>45</sup> Mrs Tempe Harvey, National Marriage Coalition, *Transcript*, 10 November 2011, at 23.

<sup>46</sup> Reverend Christopher Twinn, Living House Family Church, submission no. 22, at 1.

## 4.2 Attack on religious freedom

There was concern amongst some submitters that the introduction of civil partnerships would lead to churches and other religious organisations being forced to conduct civil partnership ceremonies against the religious convictions of that church or religious organisation. Further, there were concerns that the Bill will lead to marriage celebrants being faced with criminal charges based on discrimination if they refused to witness a civil partnership declaration.<sup>47</sup>

The committee notes that the Bill neither prescribes nor prohibits civil partnership declarations taking place on religious premises.

Further (as noted above in 4.1.4), the Bill requires a declaration of intent to enter into a civil partnership to be made before a civil partnership notary. It provides for the separate registration of civil partnership notaries. This means that, unless marriage celebrants wish to register as a civil partnership notary (in addition to their registration as a marriage celebrant), they would be unable to legally conduct a civil partnership declaration.

## 4.3 Discrimination

A large number of submitters argued that the Bill is unnecessary because the State and Federal legislation recognising de facto relationships (and particularly same-sex de facto relationships) provides adequate protection for couples in that situation.<sup>48</sup> [See section 2.2 above for discussion of de facto relationship legislation.]

Other submitters argued that any discrimination between same-sex partners and married spouses is minor and fair. It was argued that the State should preference marriage of heterosexual couples above all other relationships as only a male and a female couple can naturally produce children, which is a benefit to, and necessary for the survival of, the human race.<sup>49</sup>

As noted above (at 4.1.1.1), a number of submitters considered that instead of removing any perceived discrimination, the Bill would actually discriminate against people in different relationship structures by not allowing them to register or to receive legal recognition of their relationships.

## 4.4 The potential impact on children

It was argued that the scheme proposed by the Bill would have an adverse effect on the welfare of children. These arguments were generally founded on the proposition that children were better off in a family or social unit which included a mother and a father, and that to recognise civil partnerships as contemplated by the Bill would mean that children would be in other social units that were less beneficial or even harmful to them.

FamilyVoice Australia referred to research in this area to support this proposition and stated:

*We have to take seriously too the research that says that children do better in man-woman natural relationships.*<sup>50</sup>

To allow registration of civil partnerships, it was argued, would adversely impact on children.

*Critically, if same-sex marriage is enacted, the presumption that children are better off being adopted or given through surrogacy into a family with both a mother and a father will be severely eroded and, in my view, in a very short time disappear.*<sup>51</sup>

<sup>47</sup> See for example: John Spence, submission no. 167, at 1; Reverend Allan Quak, *Transcript*, 10 November 2011, at 18; Mrs Tempe Harvey, National Marriage Coalition, *Transcript*, 10 November 2011, at 24.

<sup>48</sup> The committee received 164 form letter submissions, many of which outlined this argument.

<sup>49</sup> See for example: Australian Family Association, Queensland Branch, submission no 1673, at 6;

<sup>50</sup> Geoffrey Bullock, FamilyVoice Australia, *Transcript*, 10 November, at 21.

Whatever the position might be in relation to research regarding the impact of different parenting environments on the well-being of any children,<sup>52</sup> it should be noted that the Bill provides a scheme for the registration of both same-sex and opposite-sex partnerships. The scheme is for registration of partnerships, regardless of the involvement of any children. The scheme does not create partnerships or relationships, rather it provides for recognition and registration of those relationships. The Bill is silent on the question of children. As observed by the FLPA, the scheme has a 'focus on the relationship between two people, not on their family situation'.<sup>53</sup>

Whether any children are or are able to become part of a social unit which includes a couple in a civil partnership would depend on the actual circumstances in each case. This is unaffected by the registration scheme. Whilst other legislation already in existence might impact on any children in such a situation, their circumstances would be unaffected by any registration pursuant to the Bill.

Further, whilst the committee has noted the assertion by groups such as the Australian Christian Lobby, FamilyVoice Australia and the Australian Family Association that children do best in an ideal family situation with stable, committed, married parents of the opposite sex, the Parliament does not legislate for someone's perceived ideal version of the world. The Parliament must legislate for reality and the reality is that not all children will grow up in this environment.

The committee considers that a stable, committed relationship between two parents, of opposite sex or of the same sex, biological or not, which is a registered civil partnership afforded the rights, protections and obligations currently available for couples in de facto relationships would be better for children than to not have the option of the registration of those relationships.

## 5 Arguments in support of the Bill

The main arguments raised in support of the Bill are set out below.

### 5.1 Legal recognition of relationships

A number of submitters and witnesses argued that the Bill promotes human rights and facilitates legal recognition of a committed relationship between couples, regardless of gender, who may not wish to, or cannot marry.<sup>54</sup>

The Social Responsibilities Committee of the Anglican Church of Australia, Brisbane Archdiocese, offered its support to the Bill:

*We consider that the Bill addresses what philosopher John Rawls called a foundational principle of justice: that is, that Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all (from A Theory of Justice).*<sup>55</sup>

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<sup>51</sup> Mrs Tempe Harvey, National Marriage Coalition, *Transcript*, 10 November, at 24.

<sup>52</sup> Queensland Parliamentary Library, Discussion of the stability and suitability of heterosexual and homosexual relationships, Queensland Parliament, Brisbane, August 2009; Queensland Parliamentary Library, Registered civil unions; Children and same sex parenting, Queensland Parliament, Brisbane, November 2011.

<sup>53</sup> Letter from Deborah Awyzio, President, Family Law Practitioner's Association of Queensland Ltd, to Hon Andrew Fraser MP, dated 15 November 2011.

<sup>54</sup> Bruce Doyle, President, Queensland Law Society, *Transcript*, 10 November 2011, at 54.

<sup>55</sup> Social Responsibilities Committee of the Anglican Church of Australia, Brisbane Diocese, submission no. 862, at 1.

The committee heard that the registration of civil partnerships would enable couples, when challenged about their relationship status, to provide evidence of a long-term or official relationship.<sup>56</sup>

A number of submitters and witnesses considered that the Bill will erase the difficulties and discrimination, faced by some same-sex couples in particular, in proving the existence of a de facto relationship. A scenario often raised in evidence before the committee related to emergency situations, e.g. where one partner is in hospital:

*The most poignant of those examples that I remember concerns two men whom we will call Shane and James. Shane collapsed at work from a brain tumour he did not know he had. He lost consciousness. James was called to the ICU. He was prevented from entering by Shane's mother. Shane died a week later, having not seen his partner. I hope that this bill will prevent that from happening in the future.*<sup>57</sup>

Derek Cronin, Association for Healthy Communities, stated:

*In the hospital example that we gave before, how do you prove to someone that you are in a de facto relationship? Could I bring out my joint bank account statements for the last two years and hand them to the hospital staff in the emergency department? It is certainly a lot easier for me to say, 'Here is recognition of my relationship,' and for a state government body to recognise that.*<sup>58</sup>

In relation to the potential for the Bill to reduce discrimination faced by Queensland's gay and lesbian couples, the Anti-Discrimination Commissioner of Queensland stated:

*The Anti-Discrimination Commission sees this as a significant step in dismantling some of the structural discrimination that exists against gay and lesbian people. I think it is an important step in the direction for Queensland that, if this becomes legislation, in future when we are judged on to what degree we were a civil society this will be a good marker for us to be remembered as providing leadership in Australia on the recognition of equal rights for all people, irrespective of their gender.*<sup>59</sup>

The Bill would remove discrimination by providing an *option* to those couples who wish to enter into a civil partnership to do so. The committee considers that the argument in opposition to the Bill on the grounds that the number of civil partnerships entered into (or the take-up rate) may be low is irrelevant. Discrimination lies in the fact that the option to have a relationship recognised by the State is limited to opposite-sex couples who marry, and to de facto couples in a relationship of two years or more (who may be required to prove the existence of their relationship after the fact by presenting personal documents such as bank statements). The committee considers that discrimination can be reduced, and equality and fairness can be ensured, by providing a choice for couples to decide whether or not they want to enter into a civil partnership. The Bill would provide that choice.

## 5.2 Validation of relationships

Advocates for the Bill considered that it would validate committed relationships, provide couples with the option to celebrate their relationship by way of a civil partnership declaration, and foster a better culture of acceptance, rather than mere tolerance, of homosexual relationships.

<sup>56</sup> Shelley Argent, Parents and Friends of Lesbians and Gays, *Transcript*, 10 November, at 37.

<sup>57</sup> The Very Reverend Dr Peter Catt, Chair, Social Responsibilities Committee, Anglican Church Brisbane, *Transcript*, 10 November 2011, at 40.

<sup>58</sup> Derek Cronin, Association for Healthy Communities, *Transcript*, 10 November 2011, at 45.

<sup>59</sup> Mr Kevin Cocks, Anti-Discrimination Commissioner, Anti-Discrimination Commission of Queensland, *Transcript*, 10 November 2011, at 52.

State recognition of committed relationships would validate a couple's relationship as worthy of recognition and would provide an opportunity for couples to celebrate their relationship before friends and family.<sup>60</sup>

The committee heard that the introduction of civil partnerships, particularly in relation to same-sex couples, would reduce the burdens on young people coming to terms with their sexuality. Submitters stated that many Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) members of our community are subjected to bullying and violence due to their sexuality which can lead to depression and suicidal behaviour and the Bill would encourage wider acceptance of homosexual relationships.<sup>61</sup>

*I see a lot of young people who struggle with depression, who struggle with coming to terms with their sexuality and who struggle with the relationships around them. I think there are mental health wellbeing aspects of something like this bill of parliament—in fact, any kind of bill that gives some sort of equality to those people.*<sup>62</sup>

A discussion paper by the Australian Human Rights Commission comments that a growing body of evidence shows that LGBTI people experience anxiety and depression at higher rates than the heterosexual population. This is particularly the case for same-sex attracted young people, who experience both higher rates of depressive symptoms and higher rates of suicidal behaviour than do their heterosexual peers. A large Australian research project recently concluded that the most effective response to addressing depression and suicidal behaviour amongst LGBTI people would be to institute measures to combat homophobia, transphobia and social prejudice in the general community.<sup>63</sup>

### 5.3 Promotion of religious freedom

The committee heard that many homosexual couples are prohibited from celebrating their relationship in accordance with their faith. A number of submitters stated that they respect religious views of churches which do not support same-sex marriage, and the rights of churches to practise their faiths according to their conscience. However, there are religions which recognise homosexual relationships but are forbidden by Australian law from practising that aspect of their faith for couples in same-sex relationships. Those submitters consider that the Bill promotes religious freedom by allowing their church to offer civil partnership declarations, thus providing recognition of a couple's relationship in the eyes of the State and in the eyes of their God.<sup>64</sup>

### 5.4 Marriage equality

A number of submitters and witnesses considered that the Bill should not be considered as a substitute for marriage equality. Further, both advocates and opponents of the Bill suggested that

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<sup>60</sup> See for example: Shelley Argent, Parents and Friends of Lesbians and Gays, *Transcript*, 10 November 2011, at 37; Derek Cronin, Association for Healthy Communities, *Transcript*, 10 November 2011, at 43; Michael Cope, President, Queensland Council for Civil Liberties, *Transcript*, 10 November 2011, at 46.

<sup>61</sup> Ms Linda Kerri Baccaul Petrie, *Transcript*, 10 November 2011, at 34; Derek Cronin, Association for Healthy Communities, *Transcript*, 10 November 2011, at 44.

<sup>62</sup> Derek Cronin, Association for Healthy Communities, *Transcript*, 10 November 2011, at 44.

<sup>63</sup> Australia Human Rights Commission, *Protection from discrimination on the basis of sexual orientation and sex and/or gender identity -discussion paper*, Sydney, October 2010, at 4 [see footnote 4 of that discussion paper for citations].

<sup>64</sup> See for example: Narelle Oliver, Independent Catholic Church of Australia, submission no. 1675, at 1; Metropolitan Community Church of Brisbane, submission no.110, at 1.



advocates of same-sex marriage at the Federal level would not be satisfied by the limitations of the Bill in any campaign for marriage equality.<sup>65</sup>

As noted above at 2.1, the Queensland Parliament does not have jurisdiction to legislate for marriage. Alex Greenwich, of Marriage Equality, suggested the Queensland Parliament consider declaring its support for marriage equality to provide hope to gay and lesbian Australians that they will one day be treated equally by the law.<sup>66</sup>

The committee notes that the Tasmanian House of Assembly passed a motion that that House supports same-sex marriage and that it calls on the Parliament of the Commonwealth of Australia to amend the Commonwealth *Marriage Act 1961* to provide for marriage equality.<sup>67</sup>

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<sup>65</sup> See for example: *Transcript*, 10 November 2011, Michael Ord, Family Voice Australia, at 26; Shelley Argent, Parents and friends of Lesbians and Gays, at 37; Bruce Doyle, Queensland Law Society, at 53, Michael Cope; Queensland Council for Civil Liberties, at 46.

<sup>66</sup> Alex Greenwich, Marriage Equality, *Transcript*, 10 November 2011, at 38.

<sup>67</sup> Tasmanian House of Assembly, *Hansard*, 21 September 2011, Part 2, at 62.

## 6 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* states that ‘fundamental legislative principles’ are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of parliament.

### 6.1 Rights and liberties of individuals

The committee has considered the potential breaches of the fundamental legislative principles identified in the Explanatory Notes to the Bill and identified during the course of the committee’s examination of the Bill in relation to the offences specified in clauses:

- 34(1),(2),(3) – which create offences for civil partnership notaries to allow a declaration of civil partnership to be made before the notary without receiving the required notice under clause 10 or not receiving the notice within the time specified in clause 11(2).
- 45 – which would amend the *Births, Deaths and Marriages Registration Act 2003* to provide that where a declaration of civil partnership before a civil partnership notary who is not the registrar, that notary must provide notice of the making of the declaration, and the notice given to the notary pursuant to clause 10 of the Bill, to the registrar.
- 49 – which relates to an amendment to the *Corrective Services Act 2006* to provide that persons in the custody of the Corrective Services Chief Executive must provide notice to the chief executive of their application to enter into a civil partnership.

The committee is satisfied with the justifications provided in the Explanatory Notes to the Bill and notes that these offences are not unduly onerous and are in keeping with similar offence provisions in comparable legislation.

Part 4 of the *Legislative Standards Act* relates to explanatory notes. Subsection 22(1) states that when introducing a bill into the Legislative Assembly, a member must circulate to members an explanatory note to the bill. Section 23 requires an explanatory note to a bill to be in clear and precise language and to include the bill’s short title and a brief statement providing certain information. Explanatory notes were tabled with the introduction of the Bill. The notes contain the information required by s. 23 of the *Legislative Standards Act* and a reasonable level of background information and commentary to facilitate understanding of the Bill’s genesis and objectives.

## Appendices

### Appendix A - Submission Statistics

Submissions received by the closing date of 4 November 2011:	2737
Submissions in support of the Bill:	2195
Submissions opposed to the Bill:	537
Submitter's support or opposition to the bill unclear:	5
Total number of form submissions: (some included additional submitters' personal information)	1261
Two form submissions opposed to the Bill: (one generated by the Australian Christian Lobby)	164
Two form submissions in support of the Bill: (one generated by Australian Marriage Equality)	1097
Submissions which clearly included a residential address:	1767
Queensland address provided:	1466
Other jurisdiction addresses provided:	301
Submissions which did not, or did not clearly, include a residential address:	970
Submissions received after the closing date to Monday 21 November 2011:	3219
Total submissions received to Monday 21 November 2011:	5956

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**Appendix B - List of public hearing witnesses – 10 November 2011**

<b>Witnesses</b>
Wendy Francis, Australian Christian Lobby
The Very Reverend Dr Adrian G. Farrelly, Judicial Vicar and Chancellor for the Archdiocese, Catholic Church of Brisbane
Reverend Dr Gordon Moore, C3 Church Australia
Reverend Christopher Twinn, Living House Family Church
Pastor Jenny Spyve, Rivers Community Church Inc. / Rock Community Care Inc.
Pastor Allan Quak, Northside Evangelical Church
Mr Geoffrey Bullock, FamilyVoice Australia
Mrs Tempe Harvey and Miss Veronica Hayes, National Marriage Coalition
Mr Michael Ord, Australian Family Association
Mr Alan Baker, Dr David van Gend, Family Council of Queensland
Reverend Narelle Oliver, Independent Catholic Church of Australia
Ms Linda Baccaul-Petrie
Shelley Argent OAM, Parents and Friends of Lesbians and Gays
Alex Greenwich, Australian Marriage Equality
The Very Reverend Dr Peter Catt, Chair, Social Responsibilities Committee, Anglican Church of Australia
Mr Derek Cronin, Queensland Association for Healthy Communities
Mr Michael Cope, Queensland Council for Civil Liberties
Reverend Leigh Neighbour, Metropolitan Community Church Brisbane
Mr Kevin Cocks, Anti-Discrimination Commissioner, Anti-Discrimination Commission Queensland
Mr Bruce Doyle, President, Mr Matt Dunn, Principal Policy Solicitor, and Ms Louise Pennisi, Policy Solicitor, Queensland Law Society

**Appendix C - Acts the Bill would amend**

<i>Acts Interpretation Act 1954</i>
<i>Anti-Discrimination Act 1991</i>
<i>Births, Deaths And Marriages Registration Act 2003</i>
<i>Body Corporate and Community Management Act 1997</i>
<i>Corrective Services Act 2006</i>
<i>Duties Act 2001</i>
<i>Electrical Safety Act 2002</i>
<i>First Home Owner Grant Act 2000</i>
<i>Guardianship and Administration Act 2000</i>
<i>Integrated Resort Development Act 1987</i>
<i>Judges (Pensions and Long Leave) Act 1957</i>
<i>Land Tax Act 2010</i>
<i>Payroll Tax Act 1971</i>
<i>Powers of Attorney Act 1998</i>
<i>Prostitution Act 1999</i>
<i>Public Trustee Act 1978</i>
<i>Sanctuary Cove Resort Act 1985</i>
<i>Status of Children Act 1978</i>
<i>Succession Act 1981</i>
<i>Supreme Court Act 1995</i>
<i>Surrogacy Act 2010</i>

## Appendix D - Civil Partnerships in other jurisdictions

The following Australian jurisdictions have introduced registration of civil partnerships:

- Tasmania (2003)
- Victoria (2008)
- Australian Capital Territory (2008)
- New South Wales (2010).

Additionally the committee has considered civil partnership schemes in New Zealand and the United Kingdom.

### *Tasmania*

Tasmania was the first Australian jurisdiction to provide for civil unions. The *Relationships Act 2003* (Tas) is a registration scheme with two types of personal relationships.

A 'significant relationship' is between an opposite-sex or same-sex couple who must not be married or related.<sup>68</sup> A 'caring relationship' may be any other interdependent relationship; partners must not be married but may related by family, for example non-sexual, caring relationships between carers and the people they care for, older companions or people in ethnic and Aboriginal families whose kinship ties have not been recognised by the law in the past.<sup>69</sup>

Tasmanian couples in these relationships can register their relationship with the Registrar of Births, Deaths and Marriages.<sup>70</sup> Registration provides associated legal rights and entitlements. For example, people in registered significant relationships may adopt, or be presumed to be the parents of, children born to their partners from fertility treatments.<sup>71</sup>

Tasmania recognises interstate unions, and those in some other countries. Significant relationships registered in Tasmania are also recognised in the United Kingdom, New Zealand, several European countries and several states in the United States.<sup>72</sup>

The deed of relationship is revoked by the death or marriage of either party. It can also be revoked by an order of a court, or on application to the Registrar by either or both parties, usually 90 days after the application has been lodged.<sup>73</sup>

The Tasmanian Registry of Births Deaths and Marriages maintains a register established under Part 3 of the *Relationships Act 2003*.

The following table shows the number of registered relationships in Tasmania between 2006 and 2011:

<sup>68</sup> Relationships Act 2003 (Tas), s. 4.

<sup>69</sup> Relationships Act 2003 (Tas), s. 5.

<sup>70</sup> *Relationships Act 2003* (Tas), ss.11 and 19.

<sup>71</sup> Relationships Tasmania at: <http://www.relationshipstasmania.org.au/benefits.html>

<sup>72</sup> Relationships Tasmania at: <http://www.relationshipstasmania.org.au/foreignrecognitionregisteredtasmanianrelationships.html>

<sup>73</sup> *Relationships Act 2003* (Tas), ss. 15 to 18.

	2006/07	2007/08	2008/09	2009/10	2010/11
<b>Same-sex female significant relationships</b>	7	12	10	7	10
<b>Same-sex male significant relationships</b>	10	7	5	8	4
<b>Opposite sex</b>	6	5	4	24	44
<b>Total significant relationships registered</b>	23	24	19	40	58
<b>Caring relationships</b>	1	0	0	1	2
<b>Total registered relationships</b>	24	24	19	41	60
<b>Revocations</b>	1 (same-sex female)	0	5 (4 same-sex female and 1 same-sex male)	2 (1 same-sex female and 1 same-sex male)	2 (1 same-sex female and 1 same-sex male)

Source: Tasmanian Department of Justice

#### Victoria

The *Relationships Act 2008* (Vic) allows same-sex and opposite-sex couples to register their relationship and have it recognised under Victorian law.<sup>74</sup> The Victorian Domestic Relationships Register was introduced on 1 December 2008, and the Caring Relationships Register was established a year later. Both registers provide for couples to register their relationships, regardless of their gender.

A registered relationship may be revoked by the death of one of the persons, by either of the persons getting married, by request of one or both of the persons in the relationship, or by court order.<sup>75</sup>

Victoria does not recognise interstate registered relationships, civil partnerships or unions.

The following table shows the number of registered relationships in Victoria between 2008 and 2011:

Year	2008/09	2009/10	2010/11
<b>No. of registered relationships</b>	126	238	360
<b>No. of revoked relationships</b>	0	1	3

#### Australian Capital Territory

The *Civil Partnership Act 2008* (ACT) is the model for the Queensland Bill. It defines a civil partnership as a legally recognised relationship that, subject to the Act, may be entered into by any two adults

<sup>74</sup> *Relationships Act 2008* (Vic), ss. 5 to 10.

<sup>75</sup> *Relationships Act 2008* (Vic), ss.11 to 16.

regardless of their sex.<sup>76</sup> Once a couple's relationship is registered with the Office of Regulatory Services it becomes legally recognised.

A civil partnership is revoked upon the death of one partner, or the marriage of one or both of the partners, provision of written notice by one or both parties to the registrar, or by court order.<sup>77</sup>

Section 15 of the *Civil Partnership Act 2008* provides for the recognition of civil partnerships in other states, territories and countries specified by a regulation. The Civil Partnerships Regulation 2010 provides that registered relationships in New South Wales, registered significant relationships in Tasmania and registered domestic relationships in Victoria are recognised as civil partnerships for the purposes of Territory law.<sup>78</sup>

The committee was advised that there is no breakdown of statistics for relationships registered in the ACT however, 276 relationships have been registered between July 2008 and June 2010, with no revocations.<sup>79</sup>

#### *New South Wales*

The *Relationships Register Act 2010* (NSW) provides for registration of a couple's relationship regardless of the sex of the couple.<sup>80</sup> Once the relationship is registered the couple will be afforded the same rights as de facto couples under State and Federal law. Interstate civil unions and partnerships are recognised under this Act.

A relationship registered under the *Relationships Register Act 2010* is revoked by the death or marriage of one or both partners, or upon application by one or both parties following a 90 day cooling-off period.<sup>81</sup>

The number of registered opposite-sex relationships in New South Wales since July 2010 is 361, the number of same-sex relationships registered since 2010 is 177.<sup>82</sup>

#### *New Zealand*

The *Civil Union Act 2004* (NZ) came into force in April 2005. It provides that a couple over 18 years of age, who are not married to, or in a civil union with, another person, may enter into a civil union regardless of their sex. Persons aged 16 or 17 may enter into a civil union with the consent of their guardians.<sup>83</sup>

An opposite-sex couple may transfer their relationship to a marriage, and a married couple may transfer their relationship to a civil union.<sup>84</sup> The *Family Proceedings Act 1980* (NZ) regulates the termination of civil unions and marriages. It includes a requirement that partners in the civil union must have been separated for two years.<sup>85</sup>

Civil unions may be registered to overseas residents. Civil unions are recorded as an overseas civil union if both partners reside outside New Zealand.

The following table shows the number of registered relationships in New Zealand between 2005 and 2010:

<sup>76</sup> Civil Partnership Act 2008 (ACT), s. 5.

<sup>77</sup> Civil Partnership Act 2008 (ACT), ss. 9, 10.

<sup>78</sup> Civil Partnerships Regulation 2010 (ACT), s. 5.

<sup>79</sup> Advice from ACT Office of Regulatory Services by emails dated 11 and 17 November 2011.

<sup>80</sup> Relationships Register Act 2010 (NSW), s. 3.

<sup>81</sup> Relationships Register Act 2010 (NSW), ss. 10, 11.

<sup>82</sup> New South Wales Registry of Births, Deaths and Marriages.

<sup>83</sup> Civil Union Act 2004 (NZ), s. 4.

<sup>84</sup> Civil Union Act 2004 (NZ), s. 18.

<sup>85</sup> Family Proceedings Act 1980 (NZ), s. 39.



	2005	2006	2007	2008	2009	2010
<b>Same-sex male</b>	113	131	103	111	97	73
<b>Same-sex female</b>	114	188	150	145	147	127
<b>Opposite sex civil unions</b>	49	78	63	71	66	73
<b>Transfers from marriage</b>	2	0	0	0	2	0
<b>Civil unions registered to overseas residents</b>	No data	33	77	78	58	65
<b>Total</b>	278	397	316	327	312	273
<b>Dissolution</b>	No data	No data	0	8	51	51

Source: Statistics New Zealand, *Hot off the press*<sup>86</sup>

#### *United Kingdom*

The *Civil Partnerships Act 2004* (UK) established a new legal relationship of same-sex civil partners. To be eligible to enter into a civil partnership the parties must be of the same-sex, and one or both of the parties must not be married, must not be under 16 years of age, and must not be in a prohibited relationship.<sup>87</sup> Parental consent is required where a party is under 18 years of age.<sup>88</sup>

The following table shows the number of registered relationships in the United Kingdom between 2005 and 2010:

	2005	2006	2007	2008	2009	2010
<b>Number of civil partnerships</b>	1,953	16,106	8,728	7,169	6,281	6,385
<b>Dissolved civil partnerships</b>	No data	No data	41	180	353	509

Source: Civil partnership Statistics, United Kingdom 2010

<sup>86</sup> See <http://www.stats.govt.nz/>

<sup>87</sup> *Civil Partnerships Act 2004* (UK), ss. 1, 3. Note: Schedule 1 to the Act provides the prohibited relationships.

<sup>88</sup> *Civil Partnerships Act 2004* (UK), s. 4.

## Dissenting reports

### Mr John Paul Langbroek MP and Mr Jarrod Bleijie MP

We, the undersigned, dissent from the recommendations contained in the report put forward by the majority of Committee members ('the Report').

The Civil Partnerships Bill 2011 ('the Bill') was introduced as a private member's bill by the Hon. Andrew Fraser MP, Member for Mount Coot-tha on 25 October 2011. The Bill was referred on 26 October 2011 by the Legislative Assembly of Queensland ('Legislative Assembly') to the Legal Affairs, Police, Corrective Services and Emergency Services Committee ('the Committee') for examination and report on or before 21 November 2011.

Pursuant to Standing Order 136 of the Legislative Assembly, committees have up to 6 months from when the referral to the Committee was made to report to the Legislative Assembly. However, in this instance, the Committee is required to report back to the Legislative Assembly by 21 November 2011, less than one month from the date of introduction to the Legislative Assembly.

The circumvention of a full and proper inquiry, as is the case here, should have been avoided.

The reasons for our dissent are outlined below:

#### A DISTRACTION

This Bill is a political stunt and attempt by the Labor State Government to distract debate from the critical issues currently facing Queensland.

In discussions with members of the lesbian, gay, bisexual, transgender and intersex ('LGBTI') community, we have always found that the issues of highest priority are no different to any other Queensland community: access to a bed in a world-class hospital when needed; getting our economy back on track; safe homes and safe streets; job opportunities and job security; easing the costs of living; standards and safety in our schools; a vibrant tourism sector; and better infrastructure including roads, electricity and water.

It is noted below that this Bill is a 'Government initiative'. However, it was introduced as a private member's bill by the Member for Mount Coot-tha. The Member for Mount Coot-tha, who is notably also the recently appointed Deputy Premier, is once again seeking to divert attention from his loss of Queensland's AAA credit rating, the Government's soaring debt and cost of living increases.

In his response to a question without notice in the Legislative Assembly on 27 October 2011, the Member for Mount Coot-tha stated:

*"Let me state categorically this: the initiative that was brought to the parliament was an initiative of this government and of this government alone."*

However, the Government refused to provide a submission on the Bill. In a letter from the Hon. Anna Bligh MP, Premier to Hon. Dean Wells MP, Acting Chair of the Committee dated 4 November 2011, the Premier stated that '*[t]he Government does not have a position on the Bill and will not be making a submission to the [C]ommittee*'.

An odd statement to say the least, taking into consideration the previous statement by the Member for Mount Coot-tha that this is a government initiative. This reinforces our view that this Bill is rushed, ill-thought and designed as nothing more than a political distraction for a bad government.

Further, if as the Member for Mount Coot-tha and the Premier say that such discrimination of the LGBTI community currently exists, which idea we reject completely, then why is the

Member for Mount Coot-tha seeking to address this issue at the 11th hour of a 12 year old Labor government?

## **B JURISDICTION**

The issue of legislating with respect to the definition of marriages is a matter which falls within the jurisdiction of the Commonwealth Parliament. It is not the place of the Queensland Legislative Assembly to undermine the legislative powers of the Commonwealth Parliament in an attempt to legislate for a relationship which, in essence, is a subject matter which is, and should be, legislated by the Commonwealth.

In his briefing to the Committee on 4 November 2011, the Member for Mount Coot-tha states that "*[i]t is important to keep the whole scheme of this civil partnership relationship regime separate to that which provides for marriage. Therefore, a crossover or connection to the relationship of marriage is inappropriate in the constitutional sense in the way that the bill is being designed.*"

The above statement is in contradiction to that of the Premier in her Matters of Public Interest statement to the Legislative Assembly on 25 October 2011 wherein she likened a civil partnership ceremony to that of a wedding ceremony, stating "*I would ask all of those who do so to recall the happiest days of their own lives—and for most of us our wedding day will always be near the top of that list. So why would we deny that experience to others?*"

In the Party Games segment on 612 ABC Brisbane radio on 19 November 2010 the Member for Mount Coot-tha acknowledged that "*[m]arriage is something that is reserved for the Commonwealth*". However, as the Commonwealth hasn't passed legislation allowing for same-sex marriages, he has considered the alternatives, stating "*At a state level, if a bill was there to provide for civil unions which provided the same level of rights as marriage, but it can't be called marriage obviously then I would vote for that*". This is a further seemingly contradictory statement to his proposition that this Bill is not about same-sex marriage.

There have been many submissions made with respect to equality in terms of recognition of same-sex relationships. However, as stated in the Explanatory Notes for this Bill, it is important to note that "*[t]he Commonwealth Government in 2008 made comprehensive amendments to over 100 pieces of their legislation to recognise people in same-sex relationships have the same legal benefits and entitlements to a range of Commonwealth Government areas, including superannuation schemes, social security, family law, veteran's entitlements, taxation, health and immigration.*"

It is important to note that while representatives of the Labor State Government make claims for equality and are prepared to grant legal recognition for same-sex couples, the Government will not extend that equality to relationships of more than two people. We are not at all advocating for such relationships, but simply make the point that the Government's claim for equality extends only so far as they consider seems to be equal. This point was made by many of the submitters opposing the Bill on the grounds that this Bill itself discriminates.

## **C COSTS**

The Explanatory Notes to the Bill state that the costs associated with the implementation of the Bill will be met within existing resources.

The Department of Justice and Attorney-General ("Department") has estimated that the costs associated with the developing two new registers of civil partnerships and civil partnership notaries would be approximately \$100,000. The Department has indicated that the Bill may impact upon the existing resources of the Department including:

- the development and maintenance of a register of civil partnerships at the Births, Deaths and Marriages Registry;
- development and maintenance of a register of civil partnership notaries at the Births, Deaths and Marriages Registry;
- applications for review to the QCAT regarding decisions by the registrar-general to refuse to register, or to cancel the registration of, a civil partnership notary;
- applications for review to QCAT regarding a decision by the registrar-general to refuse to register a civil partnership; and
- application to the District Court for the termination of a civil partnership.

The Member for Mount Coot-tha in his briefing to the Committee on 4 November 2011 advised that the registration of civil partnerships would incur a fee for service. Further, the Department has suggested that a user-pays approach, consistent with other applications lodged with the BDMR, is expected to be implemented and will likely offset the implementation and operational costs. However, we have concerns that there is no guarantee of the fee nor any indication of the amount of any fee. Further, there is no guarantee that the Bill will not have a impact upon the Department's resources.

There has been no specification with respect to fees for registration of civil partnerships proposed by the Bill. Given the small number of partnerships registered in other states or territories, i.e. 60 in Tasmania, 360 in Victoria and 361 in NSW for 2010/11 and a total of 276 in ACT so far with no revocations, it is difficult to understand how the Department could determine that the initial impact of the Bill, including the implementation and operational costs, estimated at \$100,000 could be offset by registration fees.

#### **D COMMITTEE TIMEFRAME AND LACK OF CONSULTATION**

We object to the rushing through of this significant Bill and the lack of time available for proper public consultation. The period for public consultation on this Bill from the time that the Bill was referred to the Committee until submissions were closed on 4 November 2011 was merely 9 days.

We note that on the morning of the first public hearing there were 301 submissions received, nine supporting the Bill and 292 opposing the Bill. However, after this was announced to the Member for Mount Coot-tha by another member on the Committee a substantial number of proforma submissions in support of the Bill were received. It seems that these proforma submissions were made as part of an urgent campaign in response to the number of submissions announced that morning opposing the Bill.

The Bill was introduced as a private member's bill in order to expedite its passage through the Legislative Assembly. In his briefing to the Committee on the Bill on 4 November 2011, the Member for Mount Coot-tha stated that the Bill was introduced as a private member's bill in order "*to provide the opportunity that the parliament might consider it in a timely fashion and not impact upon the agenda for government business that is set out in standing orders.*"

The Member for Mount Coot-tha confirmed that he had not undertaken any public consultation on the Bill prior to introducing it to the Legislative Assembly. The subject matter of this Bill is rather important and of such significance that proper public consultation should have been undertaken and the people of Queensland ought to have had appropriate time and opportunity to consider the subject matter and make submissions to the Committee.

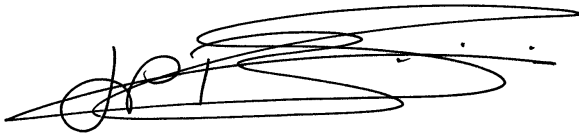
If this Bill had been introduced as a government bill then perhaps a consultation draft of the government bill would have been released for public consultation well prior to its introduction to the Legislative Assembly, thereby allowing a more appropriate timeframe for proper public consultation than has been undertaken in this instance.

Due to the limited time for submissions, public hearings and report finalisation, we do not believe that the people of Queensland have had the opportunity to submit their concerns or otherwise to the Committee.

### **CONCLUDING REMARKS**

Overall, the limited timeframe for the Committee's proper review of this Bill and stakeholder consultation is severely inadequate. Therefore, we **recommend** that the Bill not be passed by the Legislative Assembly and that no changes to the current laws be made with respect to marriage or any recognition of similar relationships in Queensland.

### **Signed**

A handwritten signature in black ink, appearing to be 'Jarrod Bleijie', written over a horizontal line.

**Jarrod Bleijie MP**  
Member for Kawana

A handwritten signature in black ink, appearing to be 'John Paul Langbroek', written over a horizontal line.

**John Paul Langbroek MP**  
Member for Surfers Paradise  
Deputy Chair

## Mr Chris Foley MP

Let me start by saying that I do not hate gays.... I have numerous gay friends (including some that agree with my position in terms of parenting), but it is my firm belief that the more we have moved away from the traditional family unit the more chaotic our society has become. Mothers and Fathers bring different things to the table in terms of parenting skills. Children deserve a Mum and a Dad.

When I look at this whole argument I am very concerned that Christians are often portrayed as being hateful or spiteful towards gay people in particular. I just do not see that to be true in that the Christians that I know feel nothing but love and grace towards people regardless of their orientation. In some respects it has almost become an *ipso facto* referendum on whether Christianity is some sort of bigoted and uncaring religion. When I look at the teachings of Jesus, in particular the story of the woman who was brought to Jesus by the Jewish religious leaders, who had charged her with adultery, (which under Mosaic law was a capital offence,) I see nothing but grace, mercy and a distinct LACK of condemnation from Jesus towards the woman. Consider the story:

### John chapter 8:1-11 A Woman Caught in Adultery

*Jesus returned to the Mount of Olives, <sup>2</sup> but early the next morning he was back again at the Temple. A crowd soon gathered, and he sat down and taught them. <sup>3</sup> As he was speaking, the teachers of religious law and the Pharisees brought a woman who had been caught in the act of adultery. They put her in front of the crowd.*

*<sup>4</sup> "Teacher," they said to Jesus, "this woman was caught in the act of adultery. <sup>5</sup> The law of Moses says to stone her. What do you say?"*

*<sup>6</sup> They were trying to trap him into saying something they could use against him, but Jesus stooped down and wrote in the dust with his finger. <sup>7</sup> They kept demanding an answer, so he stood up again and said, "All right, but let the one who has never sinned throw the first stone!" <sup>8</sup> Then he stooped down again and wrote in the dust.*

*<sup>9</sup> When the accusers heard this, they slipped away one by one, beginning with the oldest, until only Jesus was left in the middle of the crowd with the woman. <sup>10</sup> Then Jesus stood up again and said to the woman, "Where are your accusers? Didn't even one of them condemn you?"*

*<sup>11</sup> "No, Lord," she said.*

*And Jesus said, "Neither do I. Go and sin no more."*

I see nothing but grace coming from real Christians as opposed to practitioners of religions without any real heart. I would respectfully submit to you that Gay people have a lot more to fear from other major religions where their extremists still regard homosexuality as a Capital Offence under their legal precedents.

I am also disappointed personally that we have not seen religions other than the Christian faith present here putting their cards on the table on this very important issue. It is my understanding that, in any multicultural society like ours where we take great care to look towards the views and sensibilities of other religions, there might be members of the Islamic community, the Buddhist community, the Hindu community, the Sikh community who are all similarly supportive of traditional marriage.

I have a number of very close friends from the gay community. In fact, it might be very surprising to people to realise that, for a mid size rural city, Maryborough has quite a high population of gay people.

There has been much discussion about the fact that children are better off in a stable, "Same sex" parenting situation than a dysfunctional heterosexual household. This is a somewhat flawed argument in that it doesn't compare "Apples with Apples". It is my belief that children are better off in a stable loving "Traditional" family unit than they are in a stable loving "Same sex" family unit.

Human history alone teaches us that the traditional family unit has stood the test of time, and we fiddle with it at our peril. There has already been accusation that this bill is discriminatory in that doesn't allow for other sexual preferences such as bestiality, polygamy, polyamory etc. etc. This is the thin end of the wedge. Once you have abandoned the sanctity of traditional marriage, you have no foundation or basis to prevent any kind of obscure social engineering. It is for these reasons that I cannot support the bill.

**Signed**

A handwritten signature in blue ink, appearing to be 'Chris Foley', written over a light blue rectangular background.

**Mr Chris Foley MP**

Member for Maryborough