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Tuesday 5 January 2016

To whom it may concern

**SUBMISSION TO REVIEW OF *RELATIONSHIPS REGISTER ACT 2010 (NSW)***

Thank you for the opportunity to make a submission as part of the five year statutory review of the *NSW Relationships Register Act 2010* ('the Act').

In this submission I would like to make two main recommendations to improve the Act:

1. The term 'registered relationship' should be replaced by the term 'civil partnership'.
2. The Act should be amended to allow people entering into civil partnerships to hold a formally recognised civil partnership ceremony if they so choose.

Nomenclature

What a relationship is called, both in society and under the law, is important for many, if not most, people.

Unfortunately, the term that is currently used in the Act – 'registered relationship' – is unsuitable for its purpose. This is because it fails to capture the fundamental nature of the relationship that it purports to describe, instead reflecting the process in which the relationship is recorded.

In my view, the NSW scheme adopts the worst terminology of all of the state and territory schemes that provide for the formal recognition of relationships between couples (outside of marriage).

Other state and territory approaches include:

- 'Significant relationships' in Tasmania<sup>i</sup>
- Both 'civil partnerships'<sup>ii</sup> and 'civil unions'<sup>iii</sup> in the Australian Capital Territory (ACT)
- 'Domestic relationships' in Victoria<sup>iv</sup> and
- 'Civil partnerships' in Queensland<sup>v</sup>.

Of these options, I recommend that the NSW scheme adopt the term 'civil partnership', both because it would be consistent with Queensland and the ACT, and also because it is likely to be understood, and accepted, by members across the community, including by people within the lesbian, gay, bisexual, transgender and intersex (LGBTI) community.

Alternatively, in my opinion any of the other terms (significant relationships, domestic relationships and civil unions) would be preferable to the current name 'registered relationships' (although adopting 'civil unions' may imply that a ceremony must be held in order to recognise that relationship, as it is in the ACT, which is an outcome that I submit should be avoided – see below).

**Recommendation 1: The term 'registered relationship' should be replaced by the term 'civil partnership'.**

Ceremonies

The second improvement to the Act that I suggest would be the introduction of an ability for couples to hold a formally recognised civil partnership ceremony if they so choose.

Currently, the *Relationships Register Act 2010* makes no provision for optional ceremonies, which differentiates it from the approach adopted in other state and territory schemes:

- Tasmania allows for ceremonies to be held on the day on which the deed of relationship is registered<sup>vi</sup>
- The ACT does not provide for formal ceremonies as part of its civil partnership scheme<sup>vii</sup>, but a ceremony is required in order to enter into a civil union<sup>viii</sup>
- Victoria does not currently provide for a formal ceremony, although this issue is being actively considered as part of debate of the Relationships Amendment Bill 2015 which is currently before Parliament<sup>ix</sup> and
- The Queensland Palaszczuk Labor Government recently reintroduced optional ceremonies for civil partnerships, reversing their abolition by the previous Newman Liberal-National Government<sup>x</sup>.

The introduction of an optional ceremony as part of the NSW relationship scheme would therefore bring it into closer alignment with other, existing schemes.

Much more importantly, however, it provides an avenue for couples to have their relationships recognised, through a formal ceremony, and in front of their families and friends, where that couple so desires.

Introducing such a scheme would show that the state of NSW is doing what it can, within the powers of a state parliament, to recognise the diversity of relationships that exist in contemporary society.

With the High Court finding in December 2013 that only the Commonwealth Parliament has the power to legislate for marriage equality<sup>xi</sup>, but the majority of Members and Senators of that Parliament showing their continued unwillingness to recognise the full equality of lesbian, gay, bisexual, transgender and intersex (LGBTI) Australians, I believe it is incumbent upon state and territory parliaments to provide the opportunity for all couples, including LGBTI couples, to enter into civil partnerships and to offer the choice to hold a formal civil partnership ceremony, too.

Even after marriage equality is finally enacted by our recalcitrant federal parliamentarians, the ability to enter into a civil partnership under state law would remain a material option for those couples who do not wish to marry for whatever reason (and that includes both cisgender heterosexual couples, and LGBTI couples) – and these couples should retain the ability to hold a ceremony if they desire.

Importantly, I do not believe holding such a ceremony should be compulsory – couples that wish to pursue this option should be able to do so, while other couples should be able to enter into a civil partnership without holding a ceremony.

**Recommendation 2: The Act should be amended to allow people entering into civil partnerships to hold a formally recognised civil partnership ceremony if they so choose.**

Thank you for taking this submission into account as part of the five year statutory review of the *NSW Relationships Register Act 2010*.

Please contact me at the details provided below should you require clarification, or additional information.

Sincerely

Alastair Lawrie

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<sup>i</sup> Under the *Relationships Act 2003*.

<sup>ii</sup> *Domestic Relationships Act 1994*

<sup>iii</sup> *Civil Unions Act 2012*

<sup>iv</sup> *Relationships Act 2008*

<sup>v</sup> Under the recently passed *Relationships (Civil Partnerships) and Other Acts Amendment Act 2015*, which will take effect later in 2016.

<sup>vi</sup> From the Tasmanian Births, Deaths and Marriages website:

<http://www.justice.tas.gov.au/bdm/relationships/ceremonies>

<sup>vii</sup> From the Access Canberra website:

[https://www.accesscanberra.act.gov.au/app/answers/detail/a\\_id/1694/~/\\_/civil-partnership-registration](https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/1694/~/_/civil-partnership-registration)

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viii Access Canberra:

[https://www.accesscanberra.act.gov.au/app/answers/detail/a\\_id/2096/kw/civil%20unions](https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/2096/kw/civil%20unions)

ix Details of the Bill can be found here:

<http://www.parliament.vic.gov.au/static/www.legislation.vic.gov.au-bills.html>

This includes an amendment, adopted by the Legislative Council, that “[t]he Registrar may conduct a ceremony in connection with the registration of a registrable domestic relationship under this section”.

x *Relationships (Civil Partnerships) and Other Acts Amendment Act 2015*

xi *The Commonwealth of Australia v The Australian Capital Territory* [2013] HCA 55: <http://eresources.hcourt.gov.au/showCase/2013/HCA/55>