



Simon Corbell MLA

ATTORNEY GENERAL
MINISTER FOR PLANNING
MINISTER FOR POLICE AND EMERGENCY SERVICES

MEMBER FOR MOLONGLO

The Hon John Von Doussa QC
President
Human Rights and Equal Opportunity Commission
GPO Box 5218
SYDNEY NSW 1042

Dear Mr Von Doussa

Thank you for your letters of 27 and 30 March 2006 to the then Attorney General, Mr Jon Stanhope MLA, regarding the Human Rights and Equal Opportunity Commission's *National Inquiry into discrimination against people in same-sex relationships: Financial and work-related benefits and entitlements*. I am responding to your letter as the new Attorney General for the ACT.

The ACT has undertaken extensive law reform aimed at addressing the equality of treatment of same sex couples. The *Domestic Relationships Act 1994* was the first major law reform initiative in the ACT towards recognising committed relationships other than marriage. That Act recognised all relationships where the partners had provided personal or financial commitment and domestic support to each other for a period of two or more years. This Act, along with all ACT legislation, is available at www.legislation.act.gov.au.

The most recent round of law reform began in the early 2002 with a review of all ACT legislation to identify provisions that discriminate against same sex couples, or against transgender people or intersex people.

The first stage amendments were contained in the *Legislation (Gay, Lesbian and Transgender) Amendment Act 2003*, introduced into the Legislative Assembly in December 2002 and passed in March 2003. This Act amended 37 Acts and regulations to address discrimination on the basis of sexual orientation or gender identity. These included amendments to the *Legislation Act 2001* to insert definitions of "domestic partner", "domestic partnership", "transgender person" and "intersex person" to provide consistent and inclusive terms for use across all ACT legislation and statutory instruments.

In December 2002 the government also released an issues paper *Discrimination and Gay, Lesbian, Bisexual, Transgender and Intersex people in the ACT* for public consultation. The government received 338 submissions in response to the issues paper and the results of the consultation were included in a report tabled in the Legislative Assembly in May 2003 entitled *Government Report to the ACT Legislative Assembly on Discrimination and Gay, Lesbian, Bisexual, Transgender and Intersex People in the ACT*.

ACT LEGISLATIVE ASSEMBLY

London Circuit, Canberra ACT 2601 GPO Box 1020, Canberra ACT 2601

Phone (02) 6205 0000 Fax (02) 6205 0535 Email corbell@act.gov.au

At the time of tabling this report the government foreshadowed a number of further amendments to ACT legislation, including amendments concerning the legal recognition of parenting relationships in relation to the children of same sex couples and amendments to adoption laws to remove the prohibition on same sex couples adopting children.

The second stage amendments were contained in the *Sexuality Discrimination Legislation Amendment Act 2004* and the *Parentage Act 2004* that were introduced into the Legislative Assembly in November 2003 and passed in February 2004.

The *Sexuality Discrimination Legislation Amendment Act 2004* amended 26 Acts and regulations to address discrimination relating to sexuality and relationship status. The *Parentage Act 2004* consolidated provisions about legal recognition of parentage and family relationships from three Acts, extended the meaning of "parent" to recognise the reality of families with same sex partners, and removed discrimination in adoption.

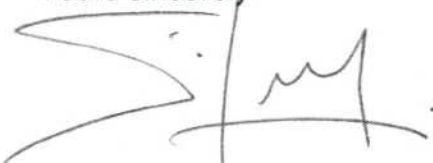
The government has also recently presented the Civil Unions Bill 2006 in the Legislative Assembly. Although the ACT has legislated for equal recognition of domestic partnerships other than marriage under ACT law, couples who are not a man and a woman currently remain unable to obtain equal recognition with married couples. In addition, unlike couples who are able to marry, they are unable to create a legally recognised domestic partnership through declaring their intention to do so. This places such couples at a significant disadvantage to those who have a similar relationship but who have the choice of marrying.

The civil union scheme will deliver functional equality under ACT law for couples who either do not have access to marriage under the Commonwealth *Marriage Act 1961* or who prefer not to marry. The purpose of the civil union scheme is to provide a mechanism for people to establish their relationship by making a formal declaration of their intention to enter a civil union. A civil union is then given the same legal recognition under ACT law as marriage.

Like marriage, a civil union is a particular form of domestic partnership. Because of the formal nature of civil union in providing a clear statement of the intention of the parties, where ACT laws still differentiate between marriage and domestic partnerships, then a civil union would be treated in the same way as a marriage.

While the ACT is doing all that it can to afford equal protection under the law to all people, regardless of their sex or sexual orientation, it must be recognised that without changes in the Federal jurisdiction, this equal treatment will be limited to the ACT. I welcome the Commission's Inquiry and look forward to the Federal Government taking further steps to end its discriminatory treatment of gay, lesbian, bisexual, transgender and intersex Australians and amending Federal laws so that relationships of same sex couples are treated in the same way as relationships of opposite sex couples.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Simon Corbell', written over a horizontal line.

Simon Corbell MLA
Attorney General

22.5.06