

VOLUNTARY ASSISTED DYING BILL 2021

Legislative Assembly Second Reading Debate – copied from Hansard 12 November 2021

Ms TAMARA SMITH (Ballina) (12:52): I speak in support of the Voluntary Assisted Dying Bill 2021. As a co-sponsor of the bill I proudly stand with the other 27 co-sponsors in bringing this important and long overdue change in the law. I thank the member for Sydney for initiating this legislation and for the open and transparent way in which he has engaged with all members and the broader community about the details and the intention of this law. I thank all of the constituents in the Ballina electorate and beyond who have written to me to express their views. Overwhelmingly, people in my area have expressed strong support for this important law reform. People have shared with me heartbreaking stories of personal experience of watching loved ones with terminal illnesses at the end of life, for whom palliative care could not alleviate their suffering. It is important to reiterate that the bill enables people with a terminal illness at the end of life to make that decision.

I am grateful to Dying with Dignity New South Wales and Go Gentle Australia for their ongoing and tireless work and their incredible resources, including State of Suffering NSW: Testimonies of the damage done in the absence of a voluntary assisted dying law. I thank everyone who contributed their testimonies, particularly my own constituent, Cathy Barry, who wrote about the terrible suffering of her brother, Tom. It is not easy to talk about the pain of watching a loved one who is suffering die, and for whom palliative care as it stands in New South Wales cannot assist. I thank Cathy for her courage in sharing those stories. I thank the 100 doctors, the Aids Council of New South Wales, Cancer Voices NSW, Australian Lawyers Alliance, Humanists Australia, Christians Supporting Choice for Voluntary Assisted Dying, the Rationalist Society of Australia, the National Secular Lobby, Marque Lawyers, and Nicholas Cowdery, AO, QC, for their submissions. I note that I rely on their work in my speech.

The Greens NSW have a long history of supporting a terminally ill person's right to voluntary assisted dying and to die with dignity at the end of life with important safeguards to protect them from abuses. As we know, most States in Australia have voluntary assisted dying laws, and many democratic countries around the world have had these laws for many years. I do not support the argument made here today that those laws open up extreme euthanasia laws or that it sends a signal to people that if they are suffering they should take their own life. As someone who has experienced a close, loved person taking their own life, and experiencing loved ones at end of life who would have benefitted tremendously from this law, I see the conflation of those as archaic and false. The Voluntary Assisted Dying Bill 2021 is named as such because of fundamental reasons that challenge some of the arguments. It is voluntary because it is the freely formed choice of the person involved. It is assisted because medical professional assistance is required to carry it out with dignity. It is dying because it is at the end of life that it is contemplated.

Just this week in this place we passed landmark reforms around consent laws founded on the principle of bodily autonomy and a fundamental element of legal equality before the law: the principle of agency and the right of self-determination in respect of one's own self. While I understand that this principle at times comes into conflict with a person's religious or moral convictions, it is important to remember that we live in a secular, legal democracy and that, as Michael Bradley notes:

To insist on subsuming the universally accepted principle of personal agency below a religious or moral conviction which is not universal, is to depart radically from the practice of making laws on a strictly secular basis to doing so on the basis of personal and controversial beliefs.

I resist the urge to compare what that looks like around the world where religious dogma informs laws. The main opposition to voluntary assisted dying is being driven by religious clerics and highly motivated religious lobby groups that represent a tiny proportion of the population. As was revealed in Neil Francis' deep research, *Religiosity in Australia: Part 1: Personal faith according to the numbers*, religious clerics are completely out of touch with their congregations. One statistic mentioned today, and one that I echo, is that in 2019, 76 per cent of Catholics said that they support voluntary assisted dying laws.

The Greens NSW reject demands for special carve-outs for faith-based institutions. While we support conscientious objection for individual health practitioners, such conscientious objections should not be extended to institutions, especially those that receive large sums of taxpayer money. To correct the record, I note that the member for Prospect claimed in his speech that Palliative Care NSW was against the voluntary assisted dying bill. I have been informed by them, through the member for Sydney, that "additional and ongoing funding for palliative care and voluntary assisted dying can coexist." Religious hospitals and aged-care homes should have to provide access to legal healthcare services, which would include voluntary assisted dying once enacted into law, if they wished to qualify for government funding. I understand that some people will not be

choose voluntary assisted dying due to their religious and moral beliefs. That is why I am proud to live in a democratic society. But we must not prevent the overwhelming majority of people in our community, who wish to have the option of voluntary assisted dying with important safeguards, to be denied this because of the religious beliefs of a few, particularly in this secular place. Suffering at the end of life with a terminal illness without the capacity to choose assisted dying is not meaningful. Suffering is not meaningful.

Throughout my time as the member for Ballina, I have received countless emails and phone calls from constituents who have endured the miserable passing of a loved one, painfully watching them at the end of life, terminally ill, and palliative care not relieving their suffering. Listening to those stories is gut-wrenching and makes me wonder why we, as a civilised State, allow it to continue. I want to share briefly a story from one of my constituents, Cathy Barry, about the wretched end of her brother's life. In 2019, at the age of 69, Cathy's brother Tom was diagnosed with untreatable metastatic facial cancer. His doctor gave him six months to live and Tom died six months and two weeks later in Ballina. When Tom asked his doctor about how he would likely die, he was told that his demise would involve choking, pneumonia, skin eruptions, strokes and bleeding.

After his diagnosis, Tom twice asked his siblings to help him end his life to prevent the suffering he was enduring and he told them the worst was yet to come. Unfortunately, Cathy and her siblings had to tell Tom that there was nothing that they do to help him because he lived in New South Wales. Tom received excellent end-of-life care from his doctors and nursing staff. Nevertheless, he still suffered terribly in the last weeks of his life. Specialist palliative care for his severe pain and anxiety gradually stopped working in the month before he died. Tom started to experience loss of consciousness, incontinence and difficulty swallowing. Sadly, Tom passed away in Ballina District Hospital after enduring several weeks of unimaginable pain, which was severe and unrelenting pain and could no longer be relieved. [*Extension of time*]

Tom was denied the chance to die with dignity instead of spending his last days in agony. His family sat beside him in hospital as he moaned, screamed, clenched his hands and cried over days and nights. In his final week of life, Tom could barely speak, uttering only two words during that week: "Inhumane!" and "Help!" I share that story with Cathy's permission and her family's permission because I do not believe in using people's suffering for political gain. But the reality is that pain management does not alleviate the suffering of everyone and many live and die with unacceptable levels of pain and suffering from terminal illnesses at end of life. As Dr Catherine Fraser put it:

Witnessing a dying relative linger in the final stages of life, having decided to deny medical treatment and refuse food, is hell. When a practitioner's ability to act with compassion is limited by the law, they are in effect acting against their primary goal to relieve suffering.

With voluntary assisted dying, death can be painless and peaceful. Dr Fraser articulated it very well for me when she said, "I think of euthanasia as choosing to die prematurely. I see voluntary assisted dying as choosing how to die when death is imminent." That is a very sharp distinction. Many safeguards are built into this legislation. I will refrain from going through them, but I want to assure my constituents and everyone who has reached out to me that I am very confident that those built-in safeguards and checks and balances do ensure that the scheme is not abused for improper motives. I pledge that I will be monitoring this legislation, as will all members of this place. We know that at any stage these laws can be reviewed; indeed, they will be reviewed. I hope that before the end of this month I can say to my community that voluntary assisted dying palliative care is now available in the State of New South Wales.