

# FACT SHEET

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Greens Leader Nick McKim MP

August 2012



*Tasmania*

## **TIMELINE: TOWARDS SECURING MARRIAGE EQUALITY IN TASMANIA**

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*"If marriage is to fulfil its aspirations, it must be defined by the commitment of one to another for richer or poorer, in sickness and in health – not by the people it excludes."*

The Economist, 1996.

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### **Moving Towards Marriage Equality in Tasmania in 2012 – Background:**

The Tasmanian Greens have long championed the removal of all discrimination on the basis of sexual orientation.

- ▲ In 1997, following years of campaigning, then-State Greens Leader Christine Milne's legislation resulted in Tasmania decriminalising homosexuality in 1997.
- ▲ In 2005, current Greens Leader, Nick McKim MP, became the first MP in Australia to introduce state marriage equality laws, when he tabled his cognate package of Same-Sex Marriage Bills in the Tasmanian House of Assembly. This cognate package was reintroduced in 2008, and again in 2010.
- ▲ **The 28<sup>th</sup> of August 2012, saw this legislative work culminate in the historic co-sponsored *Same Sex Marriage Bill 2012*, tabled by the Premier Lara Giddings MP and Greens Leader Nick McKim MP.**

### **Timeline: Parliamentary Campaign for Marriage Equality**

- ▲ **12 April 2005** – Greens' cognate package of marriage equality Bills, the *Same-Sex Marriage Bill 2005*, the *Same-Sex (Dissolution and Annulment) Bill 2005*, and the *Same-Sex Marriage (Celebrant and Registration) Bill 2005*, tabled by Greens' then-Shadow Attorney-General, Nick McKim MP.
- ▲ The Greens also release legal advice from Professor George Williams, Constitutional Law expert, that the *Same-Sex Marriage Bill* and the *Commonwealth Marriage Act 1961* are not inconsistent, and therefore the *Same Sex Marriage Bill 2005* has a sound constitutional basis.
- ▲ **30 November 2005** – Greens move to refer Nick McKim's three Same-Sex Marriage Bills to a Parliamentary Committee for public consultation, but motion was defeated by both Labor and Liberal parties.
- ▲ **1 July 2008** – Greens Nick McKim MP again tables his landmark Same-Sex Marriage cognate package in the House of Assembly.

- ▲ **9 November 2010** – Greens Leader Nick McKim MP tables his three Same-Sex Marriage Bills again, in the Tasmanian House of Assembly.
- ▲ **20 September 2011** - Greens Leader Nick McKim MP, on behalf of the Tasmanian Greens, [tabled a Motion in Parliament](#) calling on Tasmania's House of Assembly to express its support for Marriage Equality, and requesting that the Commonwealth amends the Federal *Marriage Act 1961* accordingly.
- ▲ **21 September 2011**- the Greens' Motion was debated ,and passed, making the Tasmanian House of Assembly the first Chamber in Australia to vote to give in-principle support for Marriage Equality.
- ▲ **5 August 2012**, following the Greens' successful motion in 2011 in the House of Assembly for in-principle support for marriage equality, the Tasmanian Labor Premier, Lara Giddings MP announced that she will move to support state based same-sex marriage reform, and has given Labor a conscience vote.

### **Long Time in the Making: Recent Steps Along the Path to Equality**

- In February 2011, the Greens [commissioned an EMRS poll](#), which showed 59% of Tasmanians support Marriage Equality. This is the most recent poll on marriage equality in Tasmania – and is consistent with other recent polls across Australia, which found similar levels of support for Marriage Equality.
- [Nick McKim MP released the poll results](#), on behalf of the Greens, on Monday, Sept 19, 2011.
- The in-principle support given by the House of Assembly (Sept 2011) for Marriage Equality was a remarkable turnaround for Tasmania: in 14 years, Tasmania will have gone from the last place to decriminalise homosexuality to the first State to support Marriage Equality in Australia. Both these milestones would have been brought about by the Greens involvement in power-sharing parliaments.
- The Greens have a proud legacy of driving socially progressive legislation like Marriage Equality.
- As part of the 1996-1998 Liberal minority Government, under Premier Tony Rundle, the Greens ensured that legislation was passed to decriminalise homosexuality – making Tasmania the last state to do so. It took a power-sharing Parliament to secure this significant civil liberties reform, and it is a power-sharing Parliament which is today providing the real possibility of expressing its support for Marriage Equality.
- In 2003, Tasmania passed Civil Union/Registered Partnership laws.
- From 1 January, 2004, Tasmania's *Relationships Act 2003* allowed same-sex couples to register their union as a type of domestic partnership
- In 2010, the Tasmanian Parliament unanimously passed legislation to recognise same-sex marriages performed in other jurisdictions as registered partnerships under the *Relationships Act 2003* - making it the first Australian state or territory to do so.
- [In July YouTube broadcast](#), the United Nations Human Rights Commissioner, Navi Pillay, singled out Tasmania for its record on gay rights, referring to the groundbreaking [Toonen vs Australia court case](#).
- In 1994, [the Toonen v. Australia victory](#) became a landmark human rights complaint brought before the United Nations Human Rights Committee (UNHRC) by Tasmanian resident Nicholas Toonen. The case resulted in the repeal of Australia's last sodomy laws when the Committee held that sexual orientation was included in the treaty's antidiscrimination provisions as a protected status.

### **Arguments for removing discrimination:**

- The right to choose to marry should be a basic human right – and removing current obstacles for some people to access it is the right thing for a civilised, tolerant and inclusive society to do.
- There is never a right time for discrimination in Tasmania – or anywhere else. Supporting the co-sponsored Green-Labor *Same-Sex Marriage Bill 2012* paves the way to removing this last bastion of discrimination from our statutes.
- Marriage equality would strengthen relationships and the institution of marriage. It would not affect 'traditional' opposite-sex marriages now or in the future.
- The Greens recognise amending the Federal *Marriage Act 1961* to provide for Marriage Equality would be the best way to allow Marriage Equality in Australia - which is why the Greens held off bringing on our Bills for debate, but the lack of political will federally to resolve this matter has meant that we believe Tasmania is best positioned to lead the way.
- If the Commonwealth Parliament amends the Federal *Marriage Act 1961* to provide for marriage equality, Australia will become the eleventh country in the world to legally enshrine marriage equality.
- The debate about marriage equality is underway in many countries around the world. Same-sex marriage exists in the Netherlands, Belgium, the US State of Massachusetts, and many Canadian states. Legislation guaranteeing same-sex marriage has recently been passed by the Spanish Congress. Other countries, including New Zealand and Scotland have also announced their intentions to move towards marriage equality.

#### **Constitutionality:**

- In late 2004 the then-Prime Minister John Howard amended the Commonwealth *Marriage Act 1961* to limit marriage as defined by that Act to opposite sex couples. The Greens vigorously opposed the amendment on the grounds that it was discriminatory. However by confirming the narrowness of the kind of marriages covered by the Commonwealth *Marriage Act 1961*, Mr Howard inadvertently opened the way for States to legislate for same-sex marriage.
- Professor George Williams, Constitutional Law expert at the University of NSW, has provided legal advice that the Greens previous tabled cognate package of same-sex marriage Bills and the *Marriage Act 1961* are not inconsistent, and therefore state based marriage equality laws can have a sound constitutional basis.
- Professor Williams' advice is available on the Tasmanian Greens MPs website: [mps.tas.greens.org.au](http://mps.tas.greens.org.au)