

# Dying *with* Dignity



Tasmania (Inc)

DECEMBER 2017/JANUARY 2018

**BEST WISHES TO ALL OUR MEMBERS AND SUPPORTERS FOR 2018.**

**IT'S BEEN AN HISTORIC 2017 WITH THE PASSING OF THE VICTORIAN  
*VOLUNTARY ASSISTED DYING ACT 2017.***

**WE WILL CONTINUE TO WORK FOR TASMANIA TO BE NEXT – AND  
THERE'S GOOD COMPETITION FOR THAT HONOUR!**

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**THANK YOU AND BEST WISHES TO LARA GIDDINGS**

As you may be aware, the co-sponsor of the 2013 and 2016 voluntary assisted dying Bills, Lara Giddings, is not standing again at the upcoming State election. She has been a passionate, committed and hard-working advocate for the legislation in the Tasmanian Parliament. And we're delighted she is going to continue to work with us to get a compassionate, safe and effective Tasmanian assisted dying law.

**Thank you, Lara, and our very best wishes for the future.**

**YOUR RIGHT TO CHOOSE**

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## TASMANIA – NEW BILL AFTER STATE ELECTION

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The Tasmanian State election will be held in March. At the time of writing the date has not been announced but it will be 3 or 17 March. It is critically important for supporters of voluntary assisted dying legislation to be re-elected or elected for the first time.

One of the advantages of our Hare-Clark voting system of multi-member electorates is that people committed to a particular Party can still choose between candidates in that Party to vote for those who support VAD.

Although Lara will not be in the new Parliament, there are strong supporters who will be. We are very pleased that Cassy O'Connor, the co-sponsor of the latest Bill, has already declared her commitment to another VAD Bill in the new Parliament. Rebecca White, Labor Leader, is also a strong supporter and we hope will play a leadership role on any new Bill.

### What you can do:

- Raise the issue with candidates in your electorate, tell them why you support the legislation and ask their views. Encourage them to contact DwDTas for more information and to discuss any issues. Let us know their responses – pro, anti or non-committal. Given how much debate there has been on the issue, any candidate still sitting on the fence has to be regarded as anti and therefore not someone to be voted for.
- Write to the papers, raise the issue in talkback radio.
- Talk to your friends and family about the issue and encourage them to vote for pro-VAD candidates.

**Survey of candidates:** We will be surveying candidates and will combine the results with any information you can provide. We aim to get a newsletter out before the vote. Please

don't hesitate to call if you want the information ahead of time if doing a pre-poll or postal vote.

### What we know at present:

We already know the views of existing MPs who are recontesting their seats because of their vote and speeches on 24 May 2017 on the *Voluntary Assisted Dying* Bill. We also know the views of some of the new candidates as noted. We expect that all Greens candidates are in support but will check.

### BASS:

**1. MPs who voted FOR the Bill:** Andrea Dawkins (Greens), Michelle O'Byrne (Labor).

**New candidates FOR:** Adam Gore (Labor) advised us last election that he was in favour.

**2. MPs who voted AGAINST the Bill:** Peter Gutwein, Michael Ferguson and Sarah Courtney (all Liberal)

### BRADDON:

**1. MPs who voted FOR the Bill:** Nil

**2. MPs who voted AGAINST the Bill:** Shane Broad (Labor); Jeremy Rockliff, Adam Brooks, Roger Jaensch and Joan Rylah (all Liberal)

### DENISON:

**1. MPs who voted FOR the Bill:** Cassy O'Connor (Greens); Scott Bacon (Labor)

**2. MPs who voted AGAINST the Bill:** Madeleine Ogilvie (Labor)

**New candidates FOR:** Ella Haddad and Tim Cox (Labor). We also have reason to believe that Sue Hickey (Liberal) is in support in principle but this will be checked.

### FRANKLIN:

**1. MPs who voted FOR the Bill:** Rosalie Woodruff (Greens); Nic Street (Liberal)

**2. MPs who voted AGAINST the Bill:** Will Hodgman and Jacquie Petrusma (Liberal)

**New candidates FOR:** David O’Byrne and Alison Standen (Labor)

**LYONS:**

1. **MPs who voted FOR the Bill:** Rebecca White (Labor)
2. **MPs who voted AGAINST the Bill:** Guy Barnett, Rene Hidding and Mark Shelton (all Liberal)

Adding to that information is this re-cap of the 24 May debate and vote:

- Only 1 Liberal, Nic Street (Franklin) voted for the Bill, the first and only Tasmanian Liberal MP to vote for any of the 3 Bills since 2009. This reflects the pattern of voting on previous Tasmanian Bills and all other recent Australian Bills – ie no Liberal MPs or a very small proportion vote for voluntary assisted dying Bills – **even when some express their support in principle.**
- During the debate, Sarah Courtney, Roger Jaensch and Mark Shelton indicated their support in principle but chose not to act as Nic Street did when they had the opportunity to do so.
- Nic Street provided a principled, thoughtfully argued position and **he was the only Liberal to go through the Bill in detail with DwDTas**, to ask us questions about that detail and to show in his speech how carefully he had considered the Bill and the different arguments for and against it. As he said in his speech: *“I made a conscious decision to seek out more people who were against the bill than were for it. There was not a single person I knocked back who asked for an appointment in my office”*.
- He rejected the ‘slippery slope’ argument and said he had *“trust that future parliaments, if I am not a member of them, will protect the safeguards in this bill”*. He also argued his support was consistent with his *“fundamental belief as a Liberal”* on *“how to give people the most autonomy*

*possible to live their lives free of government restriction. I believe this bill does that; that we are able to involve people in decisions about their own end of life care rather than leaving it to doctors to make the decision”*.

- The same principled and informed approach was not taken by other MPs who voted against it. The least the community deserves and expects is that our Parliamentary representatives give time and effort to the Bill, given its significance and the overwhelming majority support in the community for a legal voluntary assisted dying option. This is what 16 of them failed to do.
- Only the Premier accepted our invitation to meet but did not raise any of his specific concerns about the Bill that he later raised in his speech nor did he or his advisers follow up with either DwDTas or the co-sponsors of the Bill between 20 Feb and 24 May.
- Apart from the Premier, none of the others who voted against it accepted our invitation to meet with us or the co-sponsors of the Bill. Their speeches show they failed to make acceptable efforts to inform themselves, to seek information or advice or discuss issues of concern - as they should have done as MPs representing the community.
- Those who voted against the Bill did so at the Second Reading stage and effectively blocked the full and open debate on the details of the Bill.
- Seven Liberal MPs voted for an amendment to send the Bill to another inquiry. Six of them had not discussed their concerns beforehand with the proponents or DwDTas.
- When the amendment was lost, only Nic Street voted for the Bill. Those who voted for an inquiry and then subsequently against the Bill were the Premier, Will

Hodgman (Franklin), Peter Gutwein and Sarah Courtney (Bass), Adam Brooks and Roger Jaensch (Braddon), and Mark Shelton (Lyons).

- Liberal Speaker, Elise Archer, did not speak or vote on the Bill but voted against the very similar 2013 Bill and has made no statements of support.

If you want any additional information before you speak to candidates or before voting in the State election, please contact us.

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### VICTORIAN BREAKTHROUGH!

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As you would be aware, Victoria has become the first State to pass a voluntary assisted dying law. This was an historic breakthrough after decades of advocacy and lobbying, especially by our friends at Dying with Dignity Victoria such as Dr Rodney Syme.

It came 20 years after the Northern Territory became the first Australian voluntary assisted dying law in the Northern Territory was overturned by the undemocratic Kevin Andrews *Euthanasia Laws Act 1997*. It's a stain on our democracy that this law remains in force denying the right of Territorians (NT and ACT) to have such laws. (See other Australian news for an update on this issue.) Unlike a Territory law, the Victorian State law cannot be overturned by the Federal Parliament.

The law was passed on 22 November 2017 after marathon debates in the Upper and Lower houses, including more than one all-night session. Already the most conservative and restricted of all existing legal voluntary assisted dying, it was further restricted through amendments that the Government agreed to get it passed.

The pattern of the vote is similar to those in other Parliaments. While 86% of Labor and 100% of Greens voted for the Bill in the Lower

House, only 14% of Liberals did so and two female Liberal MPs abstained. Only 1 out of 8 (or 12.5%) Nationals MPs voted for it, a female MP. In the Upper House, 81% of Labor MPs, 100% of Greens and 31% of Liberals voted for it.

Attached to this newsletter is a summary of the *Voluntary Assisted Dying Act 2017* taken from the Queensland University of Technology End of Life Law website.

Key points of particular interest to Tasmanians are:

- The Act will not come into operation for 18 months as work is done for implementation, information, training, etc.
- The residency requirement - To be eligible someone must be "ordinarily resident in Victoria, and, at the time of making a first request for VAD, have been resident in Victoria for at least 12 months".
- The Victorian Act is based on the model of Oregon and other US legislation, with additional restrictive requirements. The Tasmanian 2013 and 2016 Bills follow the Canadian model, which we find was based on the most thorough, lengthy research and consideration and the most effective, practical and safe approach suited to our similar culture, medical and political systems.
- Although the law has many components common to other assisted dying legislation and the Tasmanian Bills, it has some aspects that would make it impractical in the Tasmanian context, or the safeguards in the Tasmanian Bill are as effective and more practical and realistic in the Tasmanian context.

We hope Tasmanian and other State and Territory MPs note the popularity of the law and the huge level of community support. For example, in the Age newspaper poll at the end of the year, Daniel Andrews, the Victorian Premier, was voted newsmaker of the year

largely due to his championing of the assisted dying law as the reason. As the Age report on 30 December said: “Strikingly, for a political newsmaker in a year plagued by grim events, most of the 278 comments about his contribution were positive, and almost all about his work legalising euthanasia”.

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### OTHER PROGRESS

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We continue to get personal stories of the people who have been able to get access to legal assisted dying overseas that show the enormous value of this option. We’ll focus on some of those stories in future newsletters.

**NSW:** The NSW *Voluntary Assisted Dying Bill* lost by one vote in their Upper House on 16 November, 19 votes to 20. A female Liberal MP changed her vote at the last minute after being supportive till then, and gave a spurious reason for voting against it!

Although it was a most disappointing result, it was a major step forward to get so close. The cross-Party proponents have made it clear they will continue to press for the legislation.

Trevor Khan, Nationals MP, was a key driver of the Bill and he has told DwDNSW: *“I take the loss as a setback, not a defeat. We will start working again in the New Year and look to introduce another bill after the March 2019 election”*.

DwDNSW ran a massive and excellent campaign. As the President, Sarah Edelman, said in the December newsletter, they could not have done anymore. They were defeated by religious intolerance and self-interest. As she says: *“Some of the 37 speeches were excruciating for all the misinformation and spin. Many were straight out of the ‘Right to Life handbook’, using the same flawed arguments and emotive terminology. Many MPs, including paradoxically, several from the Liberal Party, cited warnings from Paul Keating regarding the calamitous consequences of passing such a law. Several made references to*

*God and their faith, although many said, that of course that had nothing to do with their opposition to the bill.*

*Listening to the debate, it was clear that MPs had made up their minds from the outset. There was almost no reference to the specific contents of the bill, in spite of careful drafting over 30 iterations. They opposed a voluntary assisted dying (VAD) bill in principle, and arguments focused on the usual fearmongering – elder abuse, state sanctioned suicide, ‘crossing the rubicon’, greedy relatives pressuring vulnerable family members, suicide contagion, slippery slope and the like.”*

For more information on the NSW debate, and other detailed news, go to their newsletter at <https://dwdnsw.org.au/wp-content/uploads/2017/12/DWD-NSW-Dec-newsletter-2017-interactive-for-website.pdf>.

The behaviour of NSW MPs sounds very familiar to the behaviour of opponents in other Parliamentary debates, including SA late in 2016, Tasmania in May 2017 and the Victorian debate – a disgraceful failure to represent the views of the community they are supposed to represent.

The pattern of the vote was also similar to elsewhere with only 18% of Liberals voting for the Bill. This compared to 50% of Labor MPs (showing the dominance of the Catholic Right in the NSW Labor Party) and 100% of Greens. The big difference was in the Nationals MPs vote, largely due to the informed, principled advocacy of Trevor Khan. In a complete opposite of Victoria, only 1 National MP voted against the Bill and 5 for it.

### **WA AND ACT - INQUIRIES:**

Parliamentary Committee inquiries are underway in WA and ACT, similar to the Victorian Inquiry into End of Life Choices, that include consideration of voluntary assisted dying legislation.

## WA

- A cross-Party Joint Select Committee of both Houses is conducting the “Inquiry into the need for laws in Western Australia to allow citizens to make informed decisions regarding their own end of life choices”.
- The report of the inquiry is scheduled for tabling in Parliament by 23 August 2018.
- DwDTas made a submission to the inquiry.
- More details and copies of submissions are available on the WA Parliament website.

## ACT

On 30 November 2017, the ACT Legislative Assembly established a Select Committee to review and report on end of life choices in the ACT. It has to report on or before 29 November 2018. Submissions have been invited by 23 February 2018. DwDTas intends to make a submission.

This inquiry is particularly important because the Federal *Euthanasia Act 1997 prohibits* the

ACT, like the Northern Territory, from passing a voluntary assisted dying law. This issue is included in the terms of reference of the inquiry by the Select Committee on End of Life Choices, specifically:

“5. the impact of Federal legislation on the ACT determining its own policy on voluntary assisted dying and the process for achieving change”.

## NEW ZEALAND

The NZ End-of-Life Choice Bill has passed its first hurdle in the Parliament following the national election. On 14 December, the Parliament voted 76 to 44 to send it to a Select Committee.

The new Labor Prime Minister, Jacinda Ardern, supports voluntary assisted dying legislation. For more information, see <https://www.stuff.co.nz/national/politics/99827510/historic-right-to-die-bill-passes-first-hurdle>.

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## AGM and COMMITTEE

At the AGM on 22 August, Office Bearers and the Committee for 2017 – 18 were declared elected. Keith Anderson was very pleased to be relieved after many years as Secretary. We welcomed new member, Annie Fagan. At the subsequent Committee meeting on 8 November, another new member, Robyn Maggs, was co-opted, along with Mike Harris.

We are very pleased to have this injection of ‘new blood’. It has been a very challenging few years for your long-standing Committee members who are not getting any younger. Noel Woodrow has stepped down but will continue to attend meetings and contribute as he can. Bill Godfrey has made it clear that this will be his last year on the Committee.

The Committee has the power to co-opt more members so we would love to hear from anyone else who would be interested. Please let us know.

It has also been decided to reduce the load our meetings will be three-monthly and we will deal with as much business as possible by email. The next meeting is 14 February, D Building, Old School Building in Hutchins St, Kingston.

**COMMITTEE FOR 2017 – 2018:** Margaret Sing (President), Bill Godfrey (Vice President), Helen Brookfield (Treasurer), Hilde Nilsson (Secretary), Maureen Aiken, Nica Cordover, Trish Kershaw, Keith Anderson, Barbara Porter, Annie Fagan, Robyn Maggs (co-opted) and Mike Harris (co-opted).

**VICTORIAN VOLUNTARY ASSISTED DYING ACT 2017****Key provisions of the Act*****Eligibility criteria***

In order to access VAD, a person must meet strict eligibility criteria, including that the person must:

- be aged 18 or over;
- be an Australian citizen or permanent resident, ordinarily resident in Victoria, and, at the time of making a first request for VAD, have been resident in Victoria for at least 12 months;
- have decision-making capacity; and
- be diagnosed with a disease, illness or medical condition that is:
  - incurable;
  - advanced, progressive **and will cause death**;
  - expected to cause death **within six months**; and
  - causing suffering to the person that cannot be relieved in a manner that the person finds tolerable.

A person is not eligible to access VAD **only** because they have a disability, or are diagnosed with a mental illness.

The only exception to the eligibility criteria is if the person is diagnosed with a neurodegenerative disease, illness or medical condition. In that case, a person may access VAD provided that disease, illness or condition is expected to cause death within 12 months. (The original Bill proposed that any person expected to die within 12 months could access VAD.)

A person who is considered ineligible to access VAD because they:

- were not ordinarily resident in Victoria, or
  - resident for at least 12 months prior to making the request, or
  - has or does not have decision-making capacity to make a request
- may apply to the Victorian Civil and Administrative Tribunal for a review of the decision.

***Requests and assessment***

The Act requires the person to make three separate requests for VAD, undergo two independent medical assessments, and make a written, witnessed declaration requesting access to VAD (once s/he has been assessed as eligible for access).

**[DwDTas added:** There are minimum requirements for the medical practitioners including that:

- they must hold a fellowship with a specialist medical college or be a vocationally registered general practitioner;
- at least one must have practised as a registered medical practitioner for at least 5 years after completing a fellowship with a specialist medical college or vocational registration (as the case requires)
- at least one must have relevant expertise and experience in the disease, illness or medical condition expected to cause the death of the person being assessed.]

### ***Conscientious objection***

A health practitioner with a conscientious objection to VAD has the right to refuse to provide information about VAD to a patient, and to participate in any part of the VAD process (including supplying, prescribing or administering a VAD substance, or being present when a VAD substance is administered).

### ***Administration of VAD***

In order to obtain, possess, store, use and self-administer the VAD substance, the person accessing VAD must be issued with a self-administration permit. If the person is physically incapable of self-administering or digesting the substance, a practitioner administration permit must be applied for, permitting the coordinating medical practitioner to administer the substance to the person. The person must then make an administration request to the practitioner in order to be administered the substance.

### ***Safeguards***

The legislation contains a range of safeguards, including:

- the person seeking VAD must be provided with information about: diagnosis and prognosis; available treatment options; palliative care options; and risks associated with injecting the lethal medication (i.e. death). The person must also be advised that s/he may decide at any time not to continue the VAD process.
- A Voluntary Assisted Dying Review Board will be established with monitoring, reporting, compliance, safety and research functions.
- Regulations governing the prescription, dispensing and disposal of VAD substances.
- Mandatory reporting requirements for health practitioners and employers where they believe another health practitioner's conduct breaches the Act e.g. offering to provide access to VAD in a way that contravenes the Act.
- Protection from criminal liability for persons who assist or facilitate a request for, or access to VAD.
- Protection from criminal and civil liability for practitioners who act in accordance with the Act.
- A range of new offences relating to non-compliance with or contravention of the Act.
- Statistical information about the people who access VAD (i.e. their disease, illness or condition, and their age at the time of their death from VAD) will be recorded and publicly released (in a de-identified form).

### ***Review***

The Act will be reviewed by the Minister in its fifth year of operation.

(Summary from the End of Life Law website - <https://end-of-life.qut.edu.au/about/recent-developments>)