

5 November 2015

Ms Lizzie Blandthorn MP
Chair
Scrutiny of Acts and Regulations Committee

By email: sarc@parliament.vic.gov.au

Dear Ms Blandthorn,

Re: Public Health & Wellbeing Amendment (Safe Access Zones) Bill 2015.

Family Planning Victoria (FPV) makes a submission to the committee on the *Public Health & Wellbeing Amendment (Safe Access Zones) Bill 2015*, as referred to in the letter as 'the Bill'.

The stated purpose of the Bill is to amend the *Public Health and Wellbeing Act 2008*:

- a) to provide for safe access zones around premises at which abortions are provided; and
- b) to prohibit publication and distribution of certain recordings, and;

After Part 9 of the current **Public Health & Wellbeing Act** insert-

Part 9A-Safe access to premises at which abortions are provided

The purpose of this part is-

- a) to provide for safe access zones around premises at which abortions are provided so as to protect the safety and wellbeing and respect the privacy and dignity of-
 - i. people accessing the services provided at those premises; and
 - ii. employees and other persons who need access to those premises in the course of their duties and responsibilities; and
- b) to prohibit publication and distribution of certain recordings.

FPV considers the Bill does not directly or indirectly:

- 1. trespass unduly upon rights of freedoms**
- 2. nor is it incompatible with the human rights set out in *The Charter of Human Rights and Responsibilities*¹.**

FPV considers the content of the *Public Health & Wellbeing Amendment (Safe Access Zones) Bill 2015* supports the following rights as described in *The Charter of Human Rights and Responsibilities*.

- i. Freedom of Movement - people have the right to enter Victoria, to move freely within it and freely choose their place of residence.**

The Bill supports the principal to move freely which includes accessing premises at which abortions are legally provided without being met by behaviours also clearly described in The Bill. Prohibited behaviour means:

- a) In relation to a person accessing, attempting to access, or leaving premises at which abortions are provided, besetting harassing, intimidating, interfering with, threatening, hindering, obstructing, or impeding that person by any means; or
- b) Subject to subsection (2), communicating by any means in relation to abortions in a manner that is able to be seen or heard by a person accessing, attempting to access, or leaving premises at which abortions are provided and is reasonably likely to cause distress or anxiety; or
- c) Interfering with or impeding a footpath, road or vehicle, without reasonable excuse, in relation to premises at which abortions are provided; or
- d) Intentionally recording by any means. Without reasonable excuse, another person accessing, attempting to access, or leaving premises at which abortions are provided, without that other person's consent; or
- e) any other prescribed behaviour;

publish has the same meaning as in the **Open Courts Act 2013**;

(2) Paragraph (b) of the definition of prohibited behaviour does not apply to an employee or other person who provides services at premises at which abortion services are provided.

A report release in September 2015 by Aston University titled 'A Hard Enough Decision to Make': Anti-Abortion Activism outside Clinics in the Eyes of Clinic Users, A report on the comments made by British Pregnancy Advisory Service services users, authored by Dr Graeme Hayes and Dr Pam Lowe, documents the analysis of 205 separate user comments, from 11 different abortion clinics recorded between 2011 and 2015. Hayes & Lowe conclude;

'Actions outside these clinics account for the greatest number of responses by clinic users expressing stress, distress, anxiety and intimidation at the presence of anti-abortion activists... It is the presence of anti-abortion activists that emerges from the data as the central cause of distress for clinic users' (Hayes & Lowe, 2015).

'We can thus conclude that numerous clinic users considered anti-abortion actions outside clinics to be intrusive, and emotionally onerous, even where the conduct of the activists was in itself polite, and did not feature graphic imagery' (Hayes & Lowe, 2015).

ii. Privacy & Reputation

- a. **A person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with and the right to have his or her reputation unlawfully attacked.**

Women in Victoria have the right to make a decision to have access to legal medical services delivering – abortion provision. *'The presence of anti-abortion activists outside clinics effectively politicises the individual decisions to seek an abortion taken by individual women, and draws them into the wider public debate, whether or not they wish their reproductive choices to be part of the political conversation. This is experienced by many service users as a direct challenge to women's legal right to access abortion, as well as a significant invasion of healthcare privacy'* (Hayes & Lowe, 2015).

The Bill also identifies the purpose of prohibiting publication and distribution of certain recordings; Hayes & Lowe have also commented in relation to this issue in their report. *'Given that clinic users consider seeking an abortion to be a fundamentally private act, being filmed deliberately is experienced as what we might term a 'paparazzi encounter' – in other words, as a private moment photographed without consent and exploited by others for their own self-interest. We can reasonably assume that this experience is not something that the majority of*

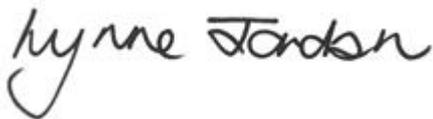
clinic users will have directly encountered before, and it consequently becomes a significant moment of anxiety and threat. Whilst the anti-abortion groups themselves may not have the intention of publicising the images, the women entering the clinics have no way of knowing what will happen to the footage, and accordingly experience being filmed as a deliberate act of intimidation, harassment, and violation' (Hayes & Lowe, 2015).

The Bill's purpose, content and definition of prohibited behaviour does not trespass unduly upon rights or freedoms, particularly those regarding:

- i. Freedom of thought, conscience, relation and belief
- ii. Freedom of Expression
- iii. Peaceful assembly and freedom of association

If you wish to discuss our involvement further, please contact me on 03 9257 0100 or 0409 141 996.

Yours sincerely



LYNNE JORDAN
Chief Executive Officer

ⁱ The Victorian Government, Department of Justice, The Charter of Human Rights and Responsibilities: Protection of Freedoms and Rights for Everyone in Victoria. Melbourne Victoria.

ⁱⁱ Dr Graeme Hayes and Dr Pam Lowe, September 2015, A Hard Enough Decision to Make': Anti-Abortion Activism outside Clinics in the Eyes of Clinic Users, A report on the comments made by British Pregnancy Advisory Service by Aston University Birmingham.