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S21.09

## **Submission to the Health Committee on the Contraception, Sterilisation, and Abortion (Safe Areas) Amendment Bill Member's Bill 310-1**

- 0.1. The National Council of Women of New Zealand, Te Kaunihera Wahine o Aotearoa (NCWNZ) is an umbrella group representing over 200 organisations affiliated at either national level or to one of our 15 branches. In addition, about 450 people are individual members. Collectively our reach is over 450,000 with many of our membership organisations representing all genders. NCWNZ's vision is a gender equal New Zealand and research shows we will be better off socially and economically if we are gender equal. Through research, discussion and action, NCWNZ in partnership with others, seeks to realise its vision of gender equality because it is a basic human right.
- 0.2. This submission has been prepared by the NCWNZ Health Standing Committee and the Parliamentary Watch Committee after consultation with the membership of NCWNZ.

### **1. Executive Summary**

- 1.1. NCWNZ members strongly support the establishment of safe zones as an essential part of ensuring the right to legal abortion in practice.
- 1.2. Each case should be decided on a case-by-case basis, but 150 metres should be the minimum and issues like transport hubs and the configuration of the surrounding streets should be taken into account.
- 1.3. The decision should be made by the Minister of Health in consultation with the abortion provider and possibly in consultation with the NZ Police.

### **2. Introduction**

- 2.1. It is NCWNZ policy<sup>1</sup> (2018) that abortion should be a standard part of health care – safe, legal and accessible. In written<sup>2</sup> and oral<sup>3</sup> submissions on the Abortion Legislation Bill,

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<sup>1</sup> NCWNZ. 2019. Appendix "D": Resolutions of National Meetings 2011-2019. 9.1.11.

<https://d3n8a8pro7vhmx.cloudfront.net/ncwnz/pages/1025/attachments/original/1585374689/Appendix-D-Resolutions-2011-2019.pdf?1585374689>

<sup>2</sup> NCWNZ. 2019. Submission to the Abortion Legislation Committee on the Abortion Legislation Bill 164-1. S19.20. <https://ncwnz.org.nz/wp-content/uploads/2019/09/S19.20-Abortion-Legislation-Bill-164-1.pdf>

<sup>3</sup> NCWNZ. 2019. Oral Submission to the Abortion Legislation Committee on the Abortion Legislation Bill 164-1. <https://ncwnz.org.nz/wp-content/uploads/2019/11/Oral-Submission-on-Abortion-Legislation-Bill-164-1.pdf>

NCWNZ strongly supported the change from treating abortion as a criminal to a health issue. NCWNZ members also strongly support the right of women and non-binary people to make their own choices about their bodies and for abortion services to be safe and accessible – protests and harassment outside abortion clinics infringe those rights. As the Explanatory Note to the Bill acknowledges, no other group of New Zealanders is subjected to this treatment simply for accessing a health service they are legally entitled to.

- 2.2. The Bill also acknowledges that this legislation will only bring Aotearoa New Zealand in line with certain states and provinces in Australia, Canada, and the United States who already have taken the lead “*in ensuring that people are able to access essential health services with their safety, privacy and dignity protected*”. For example, the State of Victoria decriminalised abortion in 2008 and passed the Public Health and Wellbeing Amendment (Safe Access Zones) Act in 2015, providing safe access zone of 150 metres around premises providing abortion services<sup>4</sup>.

### **3. NCWNZ member response**

- 3.1. It should be noted that the consultation with members occurred before the announcement on 21 April 2021 of the radical restructure of the health system, including abolition of District Health Boards (DHBs).
- 3.2. In consultation, members were asked to comment on the following specific questions:
- Do you support the establishment of safe zones around abortion facilities?
  - Do you consider 150 metres sufficient distance?
  - Who should determine whether a safe zone should be established for a specific facility?

#### **3.3. Do you support the establishment of safe zones around abortion facilities?**

- 3.3.1. There was near unanimous support for the establishment of safe zones around abortion facilities.
- 3.3.2. Members stressed that it was vitally important that women and non-binary people seeking termination of a pregnancy, should be able to have access to a health facility offering this service without interference by individuals or groups of people. Pamphlets opposing termination of pregnancies or images of foetuses have no place in the vicinity of an abortion centre. It was also important that those providing advice or services, for women and non-binary people seeking to terminate pregnancies, were not subjected to interference or lobbying as they went to and from the workplace.

#### **3.4. Do you consider 150 metres sufficient distance?**

- 3.4.1. The majority of respondents considered that 150 metres should be the absolute minimum, depending on the specific circumstances of each facility. Many

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<sup>4</sup> Safe Access Zones Around Abortion Clinic; Information for Stakeholders, April 2016.

[https://www2.health.vic.gov.au/-/media/bhc/files/campaign/abortion/health\\_vic---abortion-clinics---safe-access-zones---information-sheet.pdf](https://www2.health.vic.gov.au/-/media/bhc/files/campaign/abortion/health_vic---abortion-clinics---safe-access-zones---information-sheet.pdf)

respondents favoured 250-500 metres. All agreed the decision on the specific area should be made on a case-by-case basis including consideration of the following issues:

- the distance that allows for verbal abuse and thrown items to reach those attending the facility;
  - there may be a bus or train stop which is further than 150 metres from the facility;
  - the facility is in a blind street with less than 150 metres sufficient distance away from the protestors;
  - the facility is up a driveway and clients have to pass by the protestors on the way to the facility;
  - car parking may be more than 150 metres away from the facility.
- 3.4.2. Those very few respondents who opposed designated safe areas, supported protection from harassment but considered existing laws and provision sufficient.

### **3.5. Who should determine whether a safe zone should be established for a specific facility?**

- 3.5.1. There were differing views on this question. Most respondents supported the decision being the responsibility of the Minister of Health in consultation with the specific abortion provider or DHB, and some supported consultation with the NZ Police. Others considered that as the safe zone was stipulated in law, it should be a NZ Police decision.

## **4. Related issues**

### **4.1. Free speech**

- 4.1.1. An argument against “safe zones” is that they impinge on the right of freedom of speech and protest.
- 4.1.2. NCWNZ accepts that many people oppose termination of pregnancies and disagree with the current abortion law in Aotearoa New Zealand. They have the right to express their views and argue their case in many different fora. The area immediately around a health facility providing abortion services is not the place to express these views. Women and non-binary people choosing abortion must be able to enter these facilities without having their decisions challenged, particularly as this may be a very stressful time for them.
- 4.1.3. We note that in 2018 the Australian High Court<sup>5</sup> upheld state legislation relating to safe zones around abortion premises in Victoria and Tasmania and rejected appeals that this regulation impinges on the right to free speech. The High Court decided that to force a political message on another person was inconsistent with the dignity

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<sup>5</sup> High Court of Australia Matter No M46/2018 and Matter No H2/2018  
<http://eresources.hcourt.gov.au/downloadPdf/2019/HCA/11>

of that other person. Freedom of speech was not denied by enacting this legislation, as there were many opportunities for anti-abortion groups to express their views. However, was important that the areas around abortion facilities should be neutral with respect to positions on abortion.

#### **4.2. Enforcement**

- 4.2.1. For this legislation to be effective, it will be important for the NZ Police to respond quickly and decisively to reported incidents of breaches of the law. The role of hospital or clinic security guards will be critical in issuing a first and final warning about any breaches of the law and immediately reporting any continued breach to the Police.

#### **5. Conclusions**

- 5.1. People accessing or leaving premises providing abortions should be able to do so freely, and in a manner which protects their safety and wellbeing and respects their privacy and dignity. NCWNZ supports this Bill, but recommends that the 150 metres in the minimum, with provision for a larger area depending on local circumstances.
- 5.2. As with all legislation, it is only as effective as the implementation - it is critical that breaches of the law are responded to as quickly as possible.

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