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**THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA**

**HOUSE OF REPRESENTATIVES**

**No Domestic COVID Vaccine Passports Bill 2021**

**EXPLANATORY MEMORANDUM**

**and**

**STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS**

Circulated by authority of

Craig Kelly MP

## **No Domestic COVID Vaccine Passports Bill 2021**

### **OUTLINE**

#### ***The bill***

The bill prohibits the Commonwealth, States and Territories and other non-government entities from issuing domestic vaccine passports or certification and also prohibits discrimination on the basis of whether a person has had a COVID vaccination in the provision of goods, services and facilities and also in employment, education, accommodation and sport.

The bill supports the inalienable rights and freedoms of all Australians, a lean government that minimises interference in our daily lives and nurtures and encourages its citizens through incentives rather than punishing disincentives and the stifling structures of a large corporate state and bureaucratic red tape.

#### ***World's largest medical experiment***

The rollout of the Covid-19 vaccines should follow the principle of being *"freely available to all but mandatory to none."*

On 21 February 2021, in an ABC interview with David Speers, the Health Minister Greg Hunt noted, *"The world is engaged in the largest clinical trial, the largest global vaccination trial ever."*

In the USA, COVID vaccines only have 'emergency use authorisation', whereas in Australia the equivalent is a 'provisional approval' by the TGA.

Provisional eligibility criteria require vaccine manufacturers to submit comprehensive clinical data on the safety and efficacy of the medicine within 6 years after the grant of provisional approval.

As a vaccine passport is coercive by nature it would also be coercing Australian citizens to participate in a global medical experiment.

There is a growing number of doctors worldwide objecting to their patients participating in this global experiment.

Dr Walter Wojcik GP said, *"Not on my watch. Not with my patients. My patients are living persons with names and families, not laboratory rats to be sacrificed in a global experiment."*

Dr Roger Hodgkinson MA, MB, FRCPC, FCAP stated, *"this experimental vaccine should never have been released... [mass vaccination] is so transparently stupid, medical idiocy of a grotesque degree... the bottom line is that mass vaccination of everybody should stop immediately... when it comes to injecting this stuff in to the arms of children, I call this 'state sanctioned child abuse'."*

Dr Peter McCullough MD, MPH, FACC, FACP, FAHA, FCCP stated, *"I can no longer recommend the vaccines."*

#### ***Vaccine passports are inherently misleading***

The concept of a vaccine passport is inherently misleading. There is little evidence to show that any of the COVID vaccines prevent someone from contracting COVID or prevent someone from spreading COVID or prevent someone from being hospitalised or dying from COVID.

The US CDC compiles data of 'vaccine breakthrough cases'. A 'vaccine breakthrough infection' is defined as the detection of SARS-CoV-2 RNA or antigen in a respiratory specimen collected from a person  $\geq 14$  days after they have been injected twice. As at 7 June 2021, the CDC so far has reported 3,459 vaccine breakthrough patients who were either hospitalised or died.

The CDC also note that the number of vaccine breakthrough infections reported are likely to be an undercount of all COVID infections amongst people who have been injected twice as the data relies upon passive and voluntary reporting.

### ***Growing concern over vaccine safety***

There is also a growing concern over vaccine safety and efficacy. Highly respected and credentialed Dr. Tess Lawrie PhD has recently stated, *"there is more than enough evidence to declare the COVID-19 vaccines unsafe for use in humans."*

### ***Medical coercion via vaccine passports is a violation of human rights***

The UN Economic and Social Council has stated that the right to health under the International Covenant on Economic, Social and Cultural Rights contains both freedoms and entitlements:

*"The freedoms include the right to control one's health and body, including sexual and reproductive freedom, and the right to be free from interference, such as the right to be free from torture, non-consensual medical treatment and experimentation."*

The Parliamentary Assembly of the Council of Europe in Resolution 2361 (2021) (7.3.1 – 7.3.2) stated:

*"With respect to ensuring a high vaccine uptake, ensure that citizens are informed that the vaccination is not mandatory and that no one is under political, social or other pressure to be vaccinated if they do not wish to do so and ensure that no one is discriminated against for not having been vaccinated, due to possible health risks or not wanting to be vaccinated."*

The Australian Human Rights Commission stated:

*"Australians have been and continue to be exposed to potentially unnecessary restrictions of their rights and freedoms because of the lack of transparency and accountability and Covid-19 emergency measures must be prescribed by law, be necessary and proportionate, must be justified and regularly scrutinised, must be temporary and must be non-discriminatory."*

In a discussion of the s 51(ix) of the Constitution quarantine power in *Attorney-General (Vict) v The Commonwealth* ("*Pharmaceutical Benefits Case*") (1945) 71 CLR 237 at 257, Latham CJ held in obiter:

*"The [Commonwealth] parliament could not pass a law requiring citizens of the States to keep their premises clean or to submit to vaccination or immunization."*

### ***Off-patent drugs showing effectiveness as prophylaxis***

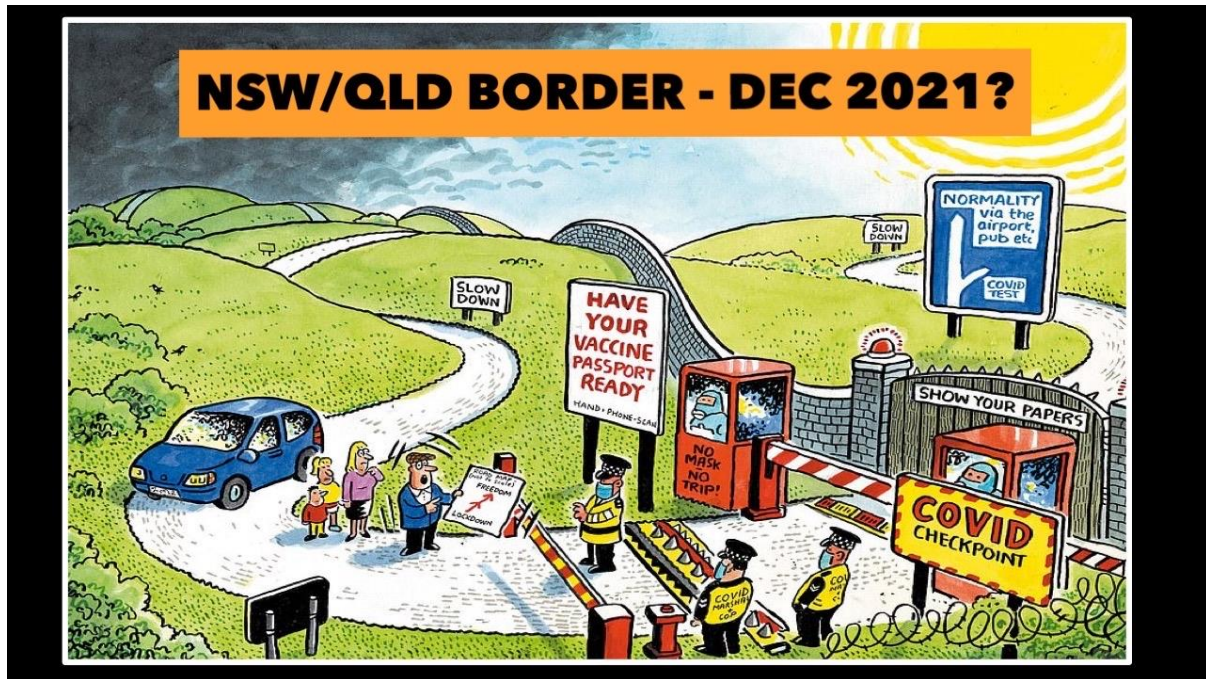
There is growing evidence on an almost daily basis of the effectiveness of Ivermectin and Hydroxychloroquine as prophylaxis treatments for COVID. 100% of the 18 randomised controlled trials for early treatment and prophylaxis with Ivermectin reported positive effects with an estimated improvement of 70-83%.

Further, there are seven peer reviewed published studies on the use of Ivermectin as a prophylaxis showing on average 88% effectiveness.

### **Conclusion**

A system of vaccine passports risks creating two classes of citizens and this bill is necessary to protect the fundamental rights and privacies of all Australians and the free flow of people and commerce throughout the nation.

The No Domestic Vaccine Passports Bill would prevent the following scenes within state borders of the Commonwealth of Australia:



### **FINANCIAL IMPACT**

The bill will have no financial impact.

### **NOTES ON CLAUSES**

#### **Clause 1: Short Title**

This clause provides for the Act to be cited as the *No Domestic COVID Vaccine Passports Act 2021*.

#### **Clause 2: Commencement**

This clause states the whole of the Act will commence on the day after it receives the Royal Assent.

#### **Clause 3: Definitions**

This clause defines terms used in the Act, some of which have the same meaning as others in the Act while others are newly defined.

**Authority** means a Commonwealth, State or Territory entity including a council.

**Business** means both a profit and a not-for-profit business.

**COVID** means the coronavirus.

**COVID vaccine passport** means a vaccine passport, vaccine pass, vaccine certificate or other standardised documentation including in electronic form issued for the purposes of certifying to a third party when an individual has received a COVID vaccination.

**Employment** means work under a contract for services including part-time and temporary work.

**Premises** means stadiums and other sporting facilities, theatres, concert halls and other performance venues.

**Provision of goods or services** means the provision of accommodation except the right of people to control who comes into their own homes; the provision of education including school, university or other institution; the provision of goods and services.

**Services** means services relating to banking, insurance and the provision of grants, loans, credit or finance; services relating to entertainment, recreation or refreshment; services relating to transport or travel; services provided by professional or trade; services provided by government, a government authority or a local government body.

**Vaccination** means traditional-style vaccines, novel and experimental genetic injectable material, chemoprophylaxis by the administration of medication.

**Voluntary body** means a not-for-profit association or other body.

#### **Clause 4: Meaning of *discriminates***

Not limited to the following, a person discriminates against the other person on the basis of whether the other person has received a COVID vaccination if the first person requests or requires the other person to produce a COVID vaccine passport or if the first person discriminates against the other person on the basis of whether the other person has a COVID vaccine passport.

A person can discriminate against the other person on 2 or more bases including the basis of whether the other person has received a COVID vaccination.

#### **Clause 5: Binding the Crown**

This Act binds the Crown in each of its capacities.

#### **Clause 6: Extension to external Territories**

This Act extends to external Territories.

#### **Clauses 7 to 9: Prohibition on issuing COVID vaccine passports and discrimination on basis of vaccination**

The Commonwealth, States and Territories must not issue COVID vaccine passports and must not discriminate based on whether a person has received a COVID vaccination.

Note this does not apply to discrimination against an officer or employee of a particular State.

The Commonwealth, States and Territories can give information about whether a person has received a COVID vaccination to a court, hospital or medical practitioner.

The Commonwealth and Territories must not enter into an agreement, provide a funding grant or grant a licence to a State, Territory, business or voluntary body reasonably likely to discriminate against a person on the basis of whether that person has received a COVID vaccination.

If a Commonwealth, State or Territory authority, business or voluntary body has in the past discriminated on the basis of whether a person has received a COVID vaccination it is taken to be reasonably likely to discriminate on that same basis in the future unless the contrary is proved.

#### **Clause 10: Other entities**

This clause applies to non-government entities.

A person employing another person must not discriminate against the other person based on whether the other person has received a COVID vaccination.

Businesses must not discriminate against a person in the provision of goods and services and giving the person access to business premises based on whether the person has received a COVID vaccination.

Voluntary bodies must not discriminate against a person with regards to membership, permission to participate in activities, the provision of goods or services and giving the person access to premises based on whether the person has received a COVID vaccination.

#### **Clause 11: Does not prevent compliance with foreign laws**

Clauses 7 to 12 do not apply to discrimination undertaken for purposes relating to compliance with a foreign law. For example, a doctor could issue a certificate for the purpose of foreign travel.

#### **Clause 12: Overrides other laws**

Clauses 7 to 12 overrides other Commonwealth, State or Territory laws that requires or permits discrimination based on whether a person has received a COVID vaccination.

#### **Clause 13: Constitutional basis of this Act**

This Act gives effect to Australia's international obligations, in particular the International Covenant on Economic, Social and Cultural Rights (article 12) and the International Covenant on Civil and Political Rights (articles 7, 17 and 26).

#### **Clause 14: Additional operation of clauses 8 and 10**

Discrimination by States and Other entities is prohibited where it is expressly confined to discrimination undertaken during Trade and Commerce and Insurance, using a Communications service to which Section 51(v) of the Constitution applies, and undertaken by a Corporation or in a Territory.

## **STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS**

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

### **No Domestic COVID Vaccine Passports Bill 2021**

This bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the bill**

This bill prohibits the Commonwealth, States and Territories and other non-government entities from issuing domestic vaccine passports or certification and also prohibits discrimination on the basis of whether a person has had a COVID vaccination in the provision of goods, services and facilities and also in employment, education, accommodation and sport.

A system of vaccine passports risks creating two classes of citizens and this bill is necessary to protect the fundamental rights and privacies of all Australians and the free flow of people and commerce throughout the nation.

This bill supports the inalienable rights and freedoms of all Australians.

#### **Human rights implications**

Human rights are identified in the bill as Australia's obligations under:

- the International Covenant on Economic, Social and Cultural Rights (ICESCR); and
- the International Covenant on Civil and Political Rights (ICCPR).

Article 12 of the ICESCR recognises all Australians have the right to the enjoyment of the highest attainable standard of physical and mental health and in order to achieve this standard shall take necessary steps in the prevention, treatment and control of epidemic, endemic, occupational and other diseases and assure to all medical service and medical attention in the event of sickness.

This bill supports the application of the highest standards of health care including personalised care and the right of a patient to choose the most appropriate and available medical treatments, preventing government and non-government entities from limiting that right.

Article 7 of ICCPR states no one shall be subjected without their free consent to medical or scientific experimentation and article 26 states all persons are equal before the law and are entitled without any discrimination to the equal protection of the law.

This bill clearly supports Australia's international obligations by prescribing in law the free choice of Australians to receive or not to receive a COVID vaccination and by prohibiting discrimination between vaccinated and unvaccinated Australians.

#### **Conclusion**

This bill is compatible with human rights because it advances the protection of individual rights and freedoms and the freedom from unfair discrimination promoting equality before the law.

**Craig Kelly MP**