

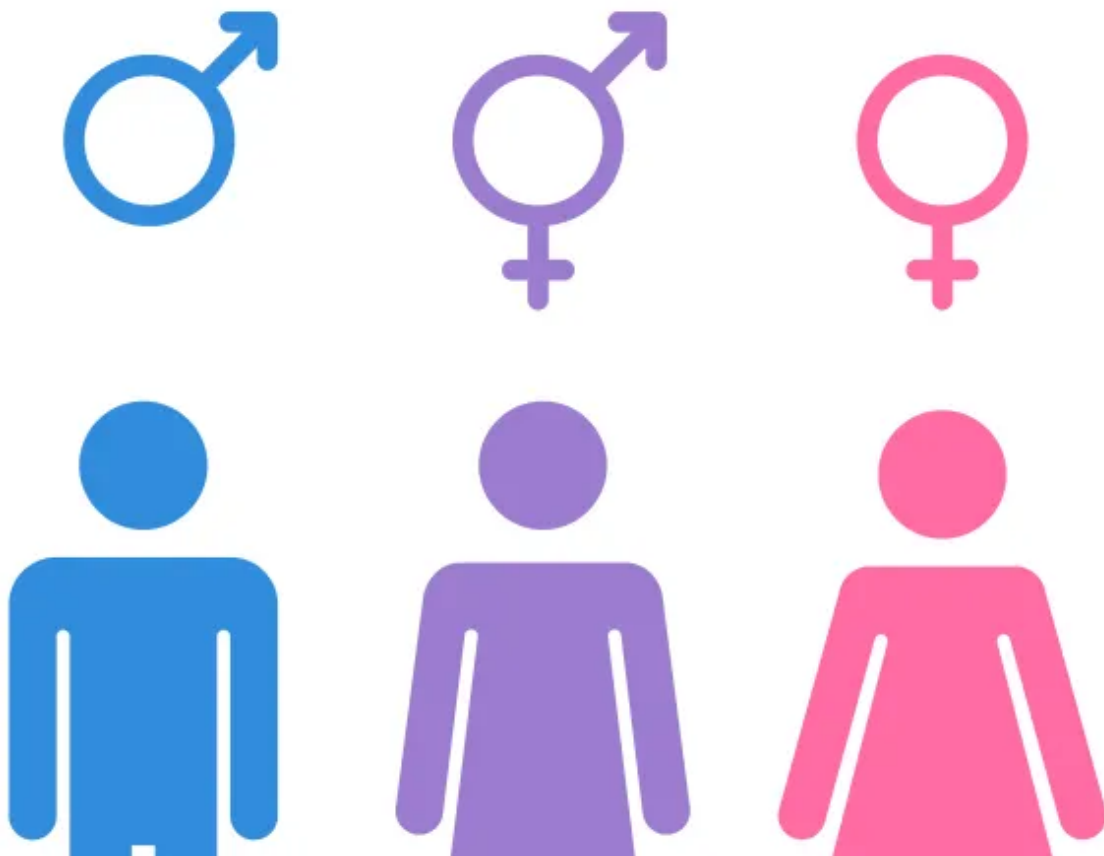
Gender equality

Why single-sex spaces are a battleground for transgender rights

The inclusion of trans women in female-only spaces has continued to spark debate across Australia this year.

By Jewel Topsfield and Karl Quinn

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Debate over the inclusion of trans women in female-only spaces has continued to spark across Australia this year. ISTOCK

Last month, Moira Deeming used public question time at every council in Victoria to ask a question that has become a flashpoint for transgender rights across the world.

Was it legal, she wanted to know, to put a sign on public toilets declaring that one is for “biological males”, one is for “biological females” and one is for people with “transgender

identities”. “If not, why not?”

[Deeming, a teacher and mother of four, was elected to Melton City Council](#) last year on a platform that included: “I will never support rates being used to promote radical policies like banning Australia Day, drag queen storytimes for toddlers, or letting biological males who identify as female use female toilets and change rooms.”



Moira Deeming asked every council in Victoria about whether it was legal to put signs on toilets specifying they were for “biological” males and “biological” females. JASON SOUTH

She was touching on an often toxic global debate: who counts as a woman? Should trans people be defined by their birth sex regardless of the gender with which they currently identify?

It’s a debate that has pitted trans rights activists against “gender-critical” (or, as their opponents would have it, “trans-exclusionary radical”) feminists, split the LGBTQ community, and seen *Harry Potter* author J.K. Rowling [accused of transphobia](#) for siding with those who insist trans women are men and thus have no right to be admitted to women-only spaces.

At its heart is whether trans rights erode the rights of cis-women – those assigned female gender at birth who identify as women – if trans people are allowed into single-sex spaces such as toilets, changing rooms, rape survivor support groups and domestic violence shelters.

Meanwhile, there is extensive anecdotal evidence of trans people being scrutinised, shamed, harassed or assaulted for accessing bathrooms that align with their gender.

Prominent trans woman Simona Castricum, a musician and academic who wrote Music Victoria's [best practice guidelines](#) for transgender inclusion at live music venues, [was this year ordered out of the women's bathroom](#) of a Fitzroy nightclub by a male security guard (the venue later apologised).



Trans woman Melissa Griffiths was once told a “woman with a dick” should not be allowed in a public women’s toilet. JASON SOUTH

Transgender woman Melissa Griffiths was once told that a “woman with a dick” should not be allowed in a public women’s toilet in Footscray.

“If someone’s still got a male face or has decided not to have facial surgery because it’s so expensive, there is a fear thing; people jump to conclusions,” Griffiths says.

She says some trans people are made to feel so uncomfortable they use disabled toilets. “Some trans women may not want to use public female toilets because of concerns around abuse or passive-aggressive behaviour such as glares or stares. This could be more of an issue at a nightclub which is not trans-friendly.”

Under state and federal laws, it is discriminatory to require a person who is transgender to use a toilet that does not align with their gender identity.

“This is so extreme and unfair,” Deeming says of the law. “There’s no compromise, no inclination to even care about how women feel, how sexual assault victims feel, how children might feel.”

She says she cares about the safety and comfort of transgender people, but believes that would best be achieved by creating dedicated spaces for them. “All I am seeking is a civil compromise.”

Deeming put her question to the 79 councils in Victoria as a private citizen because, she says, “I believe it is in the public’s best interests to hear the truth from their own officials’ mouths”.

In response, many councils referred to the legislation and some said they provided unisex public toilets. But Moonee Valley Mayor Cam Nation saw red.

“As mayor, I will not sit here and tolerate this,” fumed Nation [at a council meeting in July](#). “Public question time is not an opportunity for councillors from elsewhere to come into our chambers and use our council meeting as a platform to spread their homophobic and transphobic views.”

Nation told the chamber Deeming had a “history of homophobic and transphobic statements that have had a damaging effect on members of the LGBTIQ+ community in the western suburbs”.

“Her [article](#) published in *The Spectator* last year, in which she labelled the progress of the rights and recognition of the trans community as the ‘Transgender Inquisition’, was as offensive as it was hurtful – and was the sort of diatribe that does nothing but fuel transphobia.”

Nation, the first LGBTQ councillor at Moonee Valley, told *The Age* the council had worked hard over the past few years to make the LGBTQ community feel more valued.

“The fact this question was being shopped around to create an issue really just aggravated me,” he says.

Since 2013, anyone in Australia has been [legally able](#) to choose their gender and have it recognised in official documents; gender confirmation surgery is not necessary for someone assigned male at birth to identify as a woman, or vice versa. In fact, and for a variety of reasons including but not limited to the high cost, most don’t. [Research from the University of Melbourne](#) has found about 18 per cent of trans women surveyed had undergone genital reconfiguration surgery – colloquially known as “bottom surgery” – and about 2 per cent of trans men had.

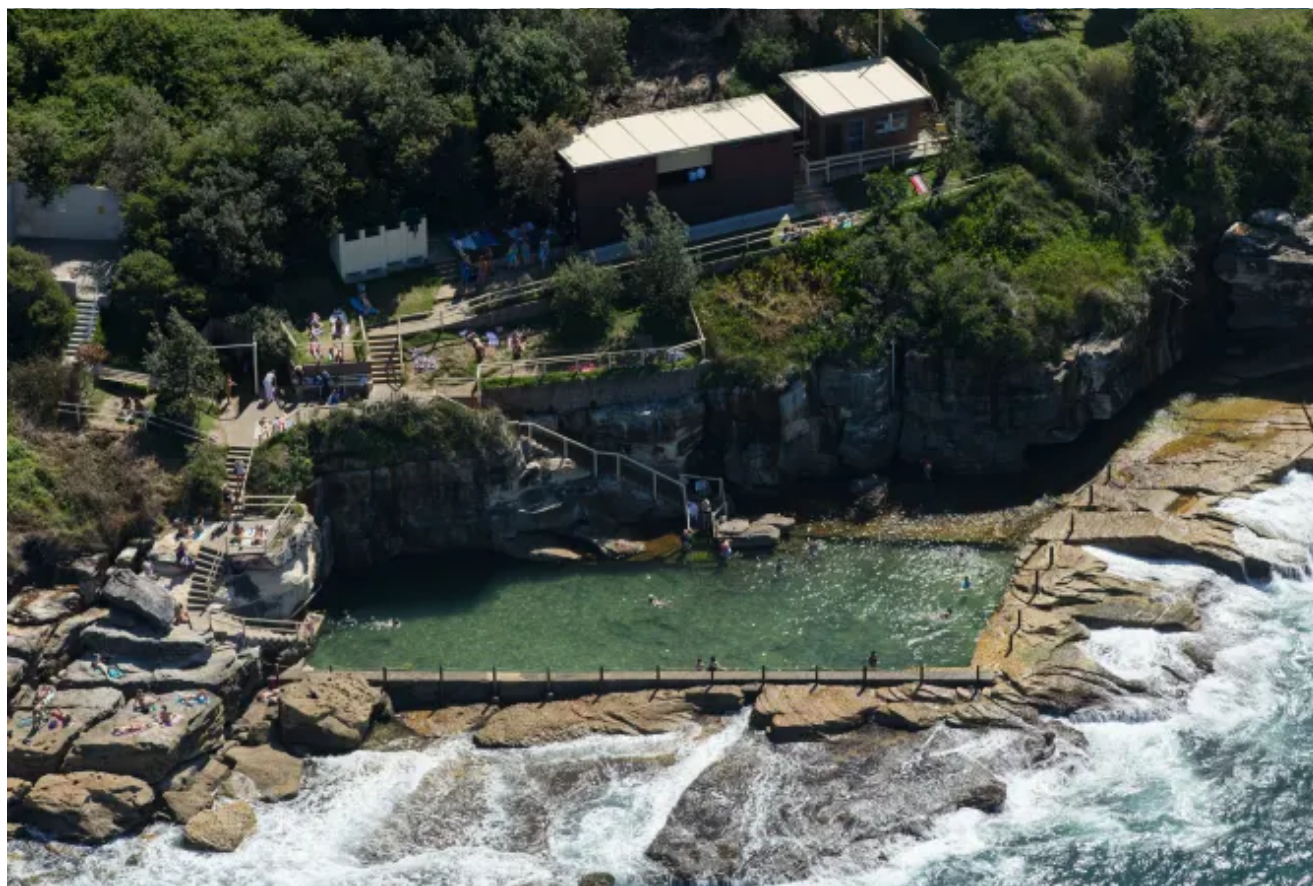
Nonetheless, debate over the inclusion of trans women in female-only spaces has continued to spark debate across Australia.

Controversy [erupted in Sydney](#) in January when McIver’s Ladies Baths – a women- and children-only pool – decreed that only transgender women who had undergone gender confirmation surgery would be allowed entry (the [venue’s website](#) now states transgender women are welcome).

In May, Jessica Hoyle applied for an exemption to exclude “biological men” from lesbian-

only events in Launceston, with the exception of a male DJ.

“It’s important we keep our single-sex spaces,” Hoyle, a spokesperson for LGB Tasmania, told this masthead. “If you are born a male, you are not a lesbian. I’m wanting to meet Cinderella, I’m wanting to meet Ms Right.”



McIver's Ladies Baths in Sydney sparked controversy after initially suggesting only transgender women who had undergone gender reassignment surgery could use the pool. HENRY ZWARTZ

Hoyle is appealing against a decision by Tasmania's anti-discrimination commissioner, Sarah Bolt, to refuse the exemption.

In July, a “gender-critical” feminist legal service that refused to remove from its website material that was deemed offensive to trans people had its tenancy grant terminated by the City of Sydney. The Feminist Legal Clinic's principal solicitor, Anna Kerr, said she believed the conflict was representative of broader efforts to undermine women's sex-based rights.

And University of Melbourne academic Holly Lawford-Smith was [accused of promoting transphobia](#) when she [launched a website](#) in February to which she invited cis-women to contribute, anonymously, their stories about feeling threatened by transgender women in women-only spaces.

“We’re worried about the impacts on women of men using women-only spaces, including but not limited to: changing rooms, fitting rooms, bathrooms, shelters, rape and domestic violence refuges, gyms, spas, sports, schools, accommodations, hospital wards, shortlists, prizes, quotas, political groups, prisons, clubs, events, festivals, dating apps and language,” [the website says.](#)

While campus protests and a campaign to have her sacked followed, Lawford-Smith remains employed by the university. However, [vice-chancellor Duncan Maskell warned staff in June](#) that their right to academic freedom does not give them licence to write or say things that cause harm to transgender people.

For Ricki Spencer, a trans woman from Melbourne's western suburbs, Melbourne University was always a sanctuary where they could watch the diverse world pass by.

"I didn't have to worry about being sneered at, spat on, called a poofter, tranny, freak or fag or being punched, all of which had happened to me regularly in the west," says Spencer, who is now the LGBTIQ officer at Melbourne University's Graduate Student Association.



Transgender woman Ricki Spencer says Melbourne Uni is no longer the welcoming space it was. PAUL JEFFERS

But Spencer no longer feels welcome at the university.

"This academic [Lawford-Smith] has used her privileged space and place to weaponise trans and gender-diverse students on our university spaces and make them people to be 'feared' and be 'reported'."

But for Lawford-Smith and others on the gender-critical side of the debate, the key issue is the threat allegedly posed to cis-women by some trans women (who in their eyes remain men, regardless of how they identify). That threat needn't amount to actual harm, she says; it's enough that women should feel uncomfortable in spaces whose primary purpose is to make them feel safe.

“Women grow up in a culture saturated in male violence, harassment and sexual objectification, and this severely impacts on their use of public space,” she says.

“Women are taught how to keep themselves safe, and then activists take away their ability to do that by saying any man who wants to include himself in any women-only space is allowed to. There don’t have to be rapes or assaults for there to be a conflict of interests.”



Associate Professor Holly Lawford-Smith launched a website in February inviting cis-women to share stories of times they had felt threatened by transgender women.

Yet there is substantial evidence that trans people, and especially trans women, are far more likely to experience violence, including sexual violence, than to threaten it, being subject to assaults, sexual and otherwise, far more than any other group in society.

[The 2015 US Transgender Survey](#) – the largest of its kind ever conducted anywhere in the world – found 47 per cent of its more than 27,000 respondents had been sexually assaulted at some point in their lives. One in 10 said they had been sexually assaulted in the year prior to the survey, and more than three-quarters of those (roughly one in 12 of the entire sample population) said the incident took place in a public bathroom.

In Australia, a [2014 study](#) found 65 per cent of young trans and gender-diverse people avoided using public toilets. [The 2017 Pathways survey of trans youth](#) found almost one-quarter had been sexually abused by someone outside the family (and more than 7 per cent by someone within it).

Evidence of harm in the other direction is, by contrast, relatively scant.

The Victorian Equal Opportunity and Human Rights Commission says it is not aware of any evidence of attacks by trans women on cis-women in toilets having occurred in Australia.

“Continued questioning of trans people’s right to access bathrooms that align with their gender is fuelled in large part by transphobia and sensationalised media coverage,” says the commission’s head of strategic communications, Aram Hosie.

Hosie says education has a key role to play in defusing a debate that is often toxic. “First, to disprove the myth that trans or gender-diverse people present any kind of risk to other users of public bathrooms. But also to educate businesses about their obligations under the Equal Opportunity Act not to discriminate against trans and gender-diverse people.”

To that end, employers could soon be required to [include all-gender bathrooms in Victorian workplaces](#) wherever possible, with WorkSafe considering feedback from a review before making a final decision.

Mama Alto, CEO of Transgender Victoria, cites as best practice the facilities at the recently opened Victorian Pride Centre: lockable single rooms with a toilet, mirror, sink, hand dryer, menstrual hygiene disposal bin, plus a number of toilets with hoists and other aids for the disabled.

“These inclusive measures enable all people to use the bathroom comfortably and safely, with dignity and privacy,” says Alto. “No matter who they are.”



Jewel Topsfield



Jewel Topsfield is social affairs editor at The Age. She has worked in Melbourne, Canberra and Jakarta as Indonesia correspondent. She has won multiple awards including a Walkley and the Lowy Institute Media Award.



Karl Quinn



Karl Quinn is a senior culture writer at The Age and The Sydney Morning Herald.