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# **AUSTRALIA: Sydney women-only ocean pool under fire over transgender policy**

*Social media users criticise the exclusion of some trans women at McIver's Ladies Baths, forcing a change of policy wording.*

By Helen Sullivan

The Guardian (12.01.2021) – <https://bit.ly/38CGwMy> – A women-only ocean pool in Sydney's eastern suburbs has come under fire over a policy that excluded transgender women who had not had surgical intervention.

The McIver's Ladies Baths' policy on transgender women, published on the FAQ section of its website, has been changed twice since attention was drawn to it on Monday afternoon.

Under the question "Are transgender women allowed?" the website's response on Monday read: "Only transgender women who've undergone gender reassignment surgery are allowed entry. Please contact us for further information if required."

After social media users questioned the policy and called for swimmers to contact Randwick council, the Randwick & Coogee Ladies Swimming Association changed the website to read: "McIver's Ladies Baths has an exemption under the Anti-Discrimination Act awarded in 1995.

"Only women and children (boys up to 13 years of age) are permitted entry. If you wish to make any further inquiries please contact the Randwick city council."

The 1995 exemption, which allows the baths to be a women-only space, was made "indefinite" in 2018.

On Monday afternoon a post on the McIver's Facebook page quoted the 1995 exemption and called for people to direct "any information regarding transgender people needs" to Randwick council.

Below the post was a fierce debate of more than 3,000 comments from a mix of people who support allowing transgender women into the baths and those who do not. The Facebook post has since been taken down.

This is not the first time that women-only swimming spots have faced backlash over allowing or not allowing trans women to use their spaces. In 2019, London's Hampstead Heath ladies' pond formalised the rights of transgender women to use the pool after intense debate and protests by a radical feminist group.

On Tuesday morning, after staff at Randwick council requested that the website wording be changed again, the McIver's FAQ response was modified to say: "Yes. Transgender women are welcome to the McIver's Ladies Baths, our definition for transgender is as per the NSW Discrimination Act."

A spokesperson for Randwick council confirmed in an email to Guardian Australia that the council had requested the change "to reflect [the baths'] actual policy position more accurately."

A statement from the council on Tuesday afternoon said: "Randwick council is an inclusive organisation that values diversity in our community, and have always supported the inclusion of transgender women at McIver's Ladies Baths." The statement reiterated that the R&CLSA, which sub-leases the baths from the council, "are ultimately responsible for management and entry to the baths".

“It is our understanding the association has always had a policy of inclusion and we have been in contact with the management of the baths to ask them to more accurately communicate this inclusive position on the issue on their website,” the statement said.

While the NSW anti-discrimination law defines trans women as all trans people who live or seek to live as women, the law recognises only some transgender people as legally being the gender they identify with, according to Newcastle University. There is a different definition under the law for “recognised” transgender people, who are required to have had “sex affirmation surgery”. The Australian Human Rights Commission has criticised this system, and recommended that individuals be allowed to decide their own gender identities without needing surgery.

It is unclear from the latest FAQ response on the McIver’s website whether the definition of trans women “as per the NSW discrimination act” refers to the specific definition of “recognised” trans women, or whether it refers to all trans women. In other words, all trans people who live or seek to live as women.

If it refers to “recognised” trans women, the current FAQ response would have the same meaning as the first response, allowing “only transgender women who’ve undergone gender reassignment surgery” to enter the baths.

Liam Elphick, a discrimination expert and associate lecturer in Monash University’s law faculty, said that if the latest

policy was referring to the latter definition, it offered “strong protection for trans women who identify as trans women,” who should, under the law, need to demonstrate only that they live or intend to live as a woman – rather than needing to provide documentation – but that it was “far less strong” for those with non-binary gender identities.

“We have discrimination laws all throughout the country,” he said, “and organisations should act not just in accordance with those laws, but as best as possible in the spirit of those laws. And those laws require that we do not discriminate in the provision of goods and services against transgender people.”

Equality Australia’s CEO, Anna Brown, told the Guardian: “All Australians should be treated equally and allowed to live with dignity as who they are. No woman, whether trans or not, should be forced to reveal any part of her body as a condition for accessing public facilities.” She said the NSW law was out of date, and “should be updated to remove confusion and bring it into line with more contemporary anti-discrimination acts in other states and federally”.

She also noted that the stigma faced by trans women often leads them to exclude themselves from health and fitness activities.

It is unclear how the policy will be enforced. Entry to the baths is permitted by a group of volunteers at busy times, and at other times swimmers throw a \$2.50 payment into a box before entering.

The Randwick & Coogee Ladies Swimming Association could not be reached for comment.

*Photo: McIver's Ladies Baths at South Coogee. The pool's policy on transgender women, published on the FAQ section of its website, has been changed since attention was drawn to it. Credit: Carly Earl/The Guardian.*

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