



Legislative Assembly of the Northern Territory

Legal and Constitutional Affairs Committee

Consultation Paper

Voluntary Assisted Dying in the Northern Territory

July 2025



This paper contains information that may be distressing as it relates to death and dying. If you need support, you can contact Lifeline at 13 11 14 for crisis support or Griefline on 1300 845 745. Aboriginal and Torres Strait Islander people can also contact 13YARN on 13 92 76 for crisis support.



Legislative Assembly of the Northern Territory

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Parliament House

State Square

Darwin NT 0800

Web: www.parliament.nt.gov.au

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1 Introduction

What is Voluntary Assisted Dying (VAD)?

Voluntary Assisted Dying (VAD) is the use of a prescribed substance to cause the death of a person who is terminally ill at their request. It is a process that gives an eligible person the choice to ask for medical help to end their life in a manner and time of their choosing. VAD is not a way for a person who is not terminally ill to end their life. 'Voluntary' means the process can be freely chosen by a person competent to make decisions about VAD. VAD is one of many end-of-life choices. Others may include continuing treatment for an illness or palliative care.

Context

VAD is not currently legal in the Northern Territory (NT), and it is an offence to assist another person end their life.¹ VAD was briefly legal in the NT under the *Rights of the Terminally Ill Act 1995* (ROTI Act). Under the ROTI Act, the NT became the first Australian jurisdiction to legalise VAD in 1995. However, the ROTI Act was overturned by the Federal Parliament in 1997, with all Territories prohibited from making VAD legislation.² The Commonwealth lifted this ban in 2022, and the NT can legislate on VAD again.³

In August 2023, the Voluntary Assisted Dying Independent Expert Panel (VAD Panel) was established by the Chief Minister to inquire into and report on developing VAD legislation in the NT. In August 2024, the VAD Panel delivered its final report, *Report into Voluntary Assisted Dying in the Northern Territory* (2024 Expert Panel Report). The 2024 Expert Panel Report made 22 recommendations relating to eligibility, process, oversight, and implementation of potential VAD legislation in the NT.

The Legal and Constitutional Affairs Committee (the Committee) of the Northern Territory Legislative Assembly conducts inquiries into and reports on constitutional and legal matters referred to it by the Attorney-General or the Assembly. On 14 May 2025, the Attorney-General requested the Committee inquire into the 2024 Expert Panel Report. The Terms of Reference for the Inquiry are set out in [Appendix A](#) of this Consultation Paper.

Purpose of this consultation

The purpose of this Consultation Paper is to seek further input on the potential model and implementation of VAD legislation in the NT as proposed in the 2024 Expert Panel Report. Part 2 of this Consultation Paper provides an overview of the recommendations

¹ *Criminal Code Act 1983* (NT), s 162.

² *Euthanasia Laws Act 1997* (Cth), s 3, schs 1-3. The *Euthanasia Laws Act 1997* (Cth) amended relevant federal legislation to remove the ability of the NT, the Australian Capital Territory and Norfolk Island to enact assisted dying legislation in the future.

³ In December 2022, the Commonwealth Parliament passed the *Restoring Territory Rights Act 2022* (Cth). For more information see Parliament of Australia, *Bills Digest No. 5, 2022-23* (2023), https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd2223a/23bd005.

made in the 2024 Expert Panel Report, other issues for consideration, and specific questions for the NT community's response. In summary, this Consultation Paper seeks your input on:

- a) whether you support legislating VAD in the NT;
- b) your views on the recommendations made in the 2024 Expert Panel Report; and
- c) any other issues you think are relevant for consideration by the Committee.

How to have your say

The Committee encourages interested individuals and organisations to make written submissions on the matters outlined in this Consultation Paper, including:

- the Consultation Topics;
- the Recommendations of the 2024 Expert Panel Report;
- the Key Questions (see page 6); and/or
- the detailed questions for consideration throughout the Consultation Paper.

Your submission can address all or any of these of these matters. The Committee is particularly interested in your views on the Consultation Topics and Recommendations.

The closing date for submissions is **29 August 2025**. Submissions should be forwarded via email to: LA.VAD@nt.gov.au. Please ensure your email includes:

- Your full name;
- The name of the organisation you represent (if applicable); and
- Your postcode.

Guidelines for making a submission, appearing as a witness to a Committee hearing, and procedures for the protection of witnesses can be found at:

<https://parliament.nt.gov.au/committees/get-involved>.

If you would like to receive updates on this and other Committee inquiries, please go to:

<https://parliament.nt.gov.au/committees/subscribe>.

Should you require any further information, please contact the Committee Secretariat on +61889461442 or by email at: LA.VAD@nt.gov.au.

The Committee will be seeking further input via public consultation in August at a variety of locations. Further information will be available on the Committee's website at:

<https://parliament.nt.gov.au/committees/list/legal-and-constitutional-affairs-committee/VAD>.

Next steps

Following receipt of your submission, the Committee will consider your views. Your views will inform a report, which the Committee intends to publish and table for the Legislative Assembly by **30 September 2025**.

Key questions

- 1 Do you support making VAD legal in the NT?
- 2 What eligibility criteria should a person need to meet before they can access VAD?
- 3 How could the NT make sure that an eligible person can access VAD in a safe and effective way, including people living in remote areas, and Aboriginal and Torres Strait Islander people?
- 4 How could the NT monitor the process to ensure VAD is delivered safely and effectively?

2 Consultation Topic 1: Legislating VAD in the NT

2024 Expert Panel Recommendation 1

The NT should implement VAD legislation that is broadly consistent with VAD legislation in other Australian States and Territories.⁴

Views on VAD

End-of-life choices may raise complex and challenging questions. VAD is an important ethical, social and legal issue for people in the NT, Australia and internationally, with many arguments for and against its use. The Committee invites you to consider your own views on legislating VAD in the NT.

Question for consideration

- Do you support legislating VAD in the NT? Why or why not?

Unique circumstances of the NT

The NT has unique geographic and demographic features that may impact on how VAD could be legislated. The NT covers an area of 1.42 million square kilometres but only has a population of 262,000 people. A significant proportion of the population live in rural and remote areas. The NT has a culturally diverse population, Aboriginal and Torres Strait Islander people making up more than 30 percent of the Territory's population.⁵

The NT's small and widely dispersed population has the highest burden of disease of any Australian jurisdiction, with Aboriginal and Torres Strait Islander people carrying a higher burden of disease rate than non-Aboriginal and Torres Strait Islander populations.⁶ The NT faces some significant challenges to healthcare delivery, including workforce shortages, high staff turnover, and cross-cultural challenges.⁷

History of legislating VAD

VAD was previously legalised in the NT under the ROTI Act. Whilst the ROTI Act was only in effect for a nine-month period and is no longer operational, it provides some useful context for considering any future legislation in the NT. Key features of the ROTI Act were:

⁴ NT Government, Voluntary Assisted Dying Independent Expert Panel, *Report into Voluntary Assisted Dying in the Northern Territory - Final Report 2024* (2024), Recommendation 1.

⁵ Australian Institute of Health and Welfare, *Rural and remote health* (2024), <https://www.aihw.gov.au/reports/rural-remote-australians/rural-and-remote-health>.

⁶ NT Health, *Morbidity burden of disease and injury in the Northern Territory 2014-2018* (2014), pp. 14-15.

⁷ NT Health, *Strengthening our Health System Strategy (2020 - 2025)* (2020), pp. 6, 10.

- **Eligibility criteria**, including minimum age (18 years), mental competence to consent, illness causing severe pain and suffering, prognosis (with no time limit), and no available treatment to effect a cure.
- **Process** for voluntary request without coercion, in addition to independent assessment by three doctors (including a psychiatrist), a nine day 'cooling off' period, information about palliative care options.
- **Administration of substance** via self-administration or administration by a doctor.
- **Doctors' right to refuse assistance** for any reason and at any time.
- **Oversight provisions**, including reporting and compliance enforcement.
- **Other matters**, including the construction of wills, insurance policies, and forms for making a VAD request.

Additional details were set out in the Rights of the Terminally Ill Regulations 1997 (ROTI Regulations). These included guidelines for medical practitioners, requirements for qualifications for medical practitioners and interpreters, medical records, and notification processes.

Legislative frameworks in other jurisdictions

VAD Acts have been passed in all other Australian jurisdictions.⁸ A summary of the other jurisdictions is included in **Appendix B** of this Consultation Paper. The VAD legislation across Australian jurisdictions shares similar basic features, including:

- **Eligibility criteria** for accessing VAD, including minimum age, residency, suffering, prognosis, and decision-making capacity.
- **Process** for independent assessment of eligibility by two qualified and experienced health practitioners.
- **Administration of substance** prescribed by a doctor, either via self-administration or administration by a health practitioner on the person's request.
- **Conscientious objection** by health practitioners who do not wish to participate in VAD.
- **Accountability** by oversight provisions, including reporting, monitoring by an oversight body and compliance enforcement.⁹

VAD Acts in other jurisdictions are also accompanied by regulations and guidelines.

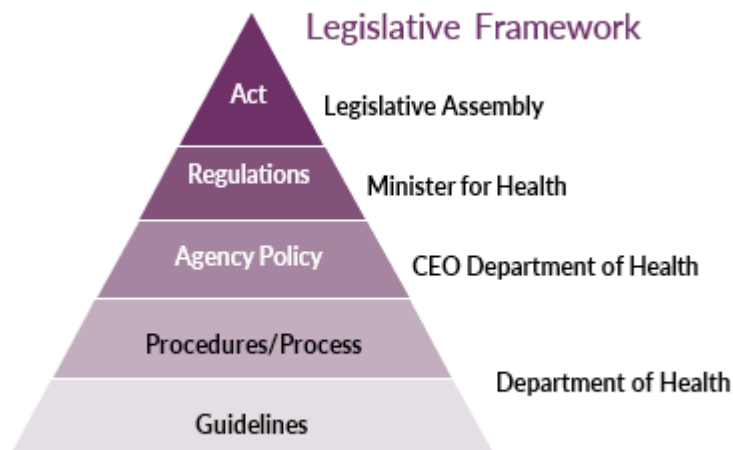
Proposed legislative framework in the NT (2024)

The 2024 Expert Panel Report proposed that the legislative framework in the NT could be consistent with other Australian jurisdictions. This would include a VAD Act, regulations, policy and guidelines. The figure below sets out the proposed structure.

⁸ *Voluntary Assisted Dying Act 2017 (Vic); Voluntary Assisted Dying Act 2019 (WA); End-of-Life Care (Voluntary Assisted Dying) Act 2021 (Tas); Voluntary Assisted Dying Act 2021 (SA); Voluntary Assisted Dying Act 2021 (Qld); Voluntary Assisted Dying Act 2022 (NSW); Voluntary Assisted Dying Act 2024 (ACT).*

⁹ *Voluntary Assisted Dying Final Report*, above n 4, pp. 56-60.

Figure 1: Proposed NT VAD legislative framework¹⁰



Potential VAD legislation must be developed to suit the NT's unique circumstances. In this regard, it is important to consider what aspects of VAD would work in the NT and what would not. The sections below set out more information about the proposed content of VAD legislation, implementation, and some of the challenges that will need to be considered.

Questions for consideration

- What aspects of VAD legislation in other States or Territories do you think should or should not be adopted in the NT?
- Given the NT's unique cultural and geographic circumstances, what additional or different safeguards should be included?

¹⁰ *Voluntary Assisted Dying Final Report*, above n 4, p. 15.

3 Consultation Topic 2: Delivering VAD in the NT

Consideration must be given to the mode through which VAD could be delivered in the NT during its implementation phase. The following section outlines the proposed 2024 model and potential challenges that may be associated with delivering VAD in the NT.

Centralised model

2024 Expert Panel Recommendation 2

The NT should develop and fund a single, centralised service for the delivery of VAD. This should include VAD practitioners, pharmacists and care navigators. Due to the very specific cultural safety concerns related to provision of VAD, the service should be stand-alone, and clearly separate from existing NT Health facilities.¹¹

There are unique challenges to delivering VAD in the NT, including access to doctors outside of major urban centres, logistical challenges of operating in remote areas, and potential risk to remote staff who are associated with VAD.¹² To address these challenges, the 2024 Expert Panel Report suggested that VAD may be delivered via a centralised service delivery model. This model would follow the same processes as other jurisdictions but would be managed and administrated centrally by a service team under the control of an oversight body, such as a Review Board.¹³

This would be a unique model as VAD delivery in all Australian States or Territories is not centralised. In all other Australian jurisdictions, medical practitioners must register as a VAD practitioner and complete any required training. However, they are not separately employed by a centralised VAD service.

NT Health is responsible for six public hospitals in Greater Darwin, Alice Springs, Tennant Creek, Katherine and Gove. Additionally, NT Health supports 39 primary health care centres and supports 133 clinics/services operated by Aboriginal Community Controlled Health Organisations.¹⁴

VAD could be implemented via a separate service which is funded and operated separately from existing NT Health services. This would include a co-located, multi-disciplinary service covering all parts of the VAD process, including:

- Clinicians to undertake assessments and coordination;
- VAD navigation services, including interpreters, family support, counselling, and social and bereavement supports; and
- Pharmacy services to oversee the supply and storage of VAD substances.

¹¹ *Voluntary Assisted Dying Final Report*, above n 4, Recommendation 2.

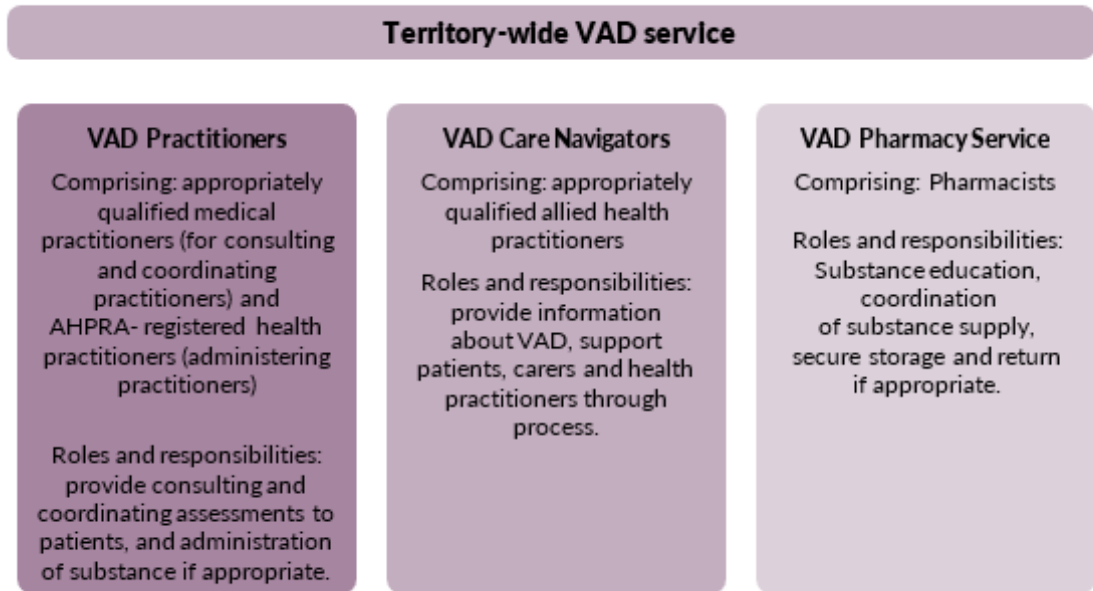
¹² Additional detail about the cultural challenges of legislating VAD in the NT are discussed in greater detail in the 'Aboriginal and Torres Strait Islander Cultural Safety' section below.

¹³ See 'Review Board' section below for more information.

¹⁴ NT Health, *Strategic Plan 2023-2028* (2023), p. 7.

The figure below outlines the proposed 2024 model for NT VAD service.

Figure 2: Proposed Model of VAD Service Delivery¹⁵



VAD Practitioners

Further information regarding the proposed role and requirements of VAD practitioners is set out below in the 'VAD Process' section.

Care Navigator Service

A Care Navigator Service is where health providers provide support to people engaging with the VAD process. All jurisdictions have a Care Navigator Service to support people seeking VAD, their friends, family or carers, and health providers involved in VAD. Assistance could include providing information, assisting with contact with VAD health providers, and referring people to other services and resources.

In the NT, consideration would need to be given to how the Care Navigator Service could be planned and implemented through consultation with diverse groups, including Aboriginal people, multicultural agencies and faith-based organisations.¹⁶

Pharmacy Service

A framework for VAD must ensure the safe supply, storage and disposal of the VAD substance. This may help ensure compliance with existing drugs and poisons laws.¹⁷ Under the proposed model, the Pharmacy Service would be the sole supplier of the VAD substance, and act as a central source of information and education about the VAD

¹⁵ *Voluntary Assisted Dying Final Report*, above n 4, p. 15.

¹⁶ *Ibid*, p. 30.

¹⁷ See *Medicines, Poisons and Therapeutic Goods Act 2012* (NT).

substance and its administration.¹⁸ It is anticipated, noting the experience of other small jurisdictions like Tasmania, that the Pharmacy Service would be unlikely to be full-time staff. Instead, trained and qualified pharmacists would be called in as needed.¹⁹ For further discussion of the supply, storage and return of the VAD substance see the 'VAD Substance' section.

Resourcing

Consideration must be given to the practicalities of resourcing a centralised service. It is impossible to accurately predict how many people may seek VAD in the NT if it is legalised. Relatively few people access VAD each year. However, the number of people accessing VAD is increasing in other Australian jurisdictions. The table below outlines the number of people accessing VAD over the last three years.²⁰

Table 1: Number of people accessing VAD in Australian jurisdictions 2021-24

	2021-22	2022-23	2023-24
VIC	407	443	554
WA	191	255	292
TAS	N/A	25	60
NSW	N/A	N/A	160
SA	N/A	39	156
QLD	N/A	245	793
ACT²¹	N/A	N/A	N/A

Questions for consideration

- What are the benefits or challenges you see with a stand-alone VAD service operating separately from existing NT Health services?

¹⁸ *Voluntary Assisted Dying Final Report*, above n 4, p. 32.

¹⁹ *Ibid.*

²⁰ These figures are sourced from the annual reports of the Review Board (or equivalent) in each jurisdiction.

²¹ Note the *Voluntary Assisted Dying Act 2024* (ACT) does not commence operation until 3 November 2025.

Delivering VAD in remote communities

There are a number of challenges associated with delivering services such as VAD in rural and remote communities.

2024 Expert Panel Recommendation 13

Subject to amendment of Commonwealth legislation, telehealth should be permitted for VAD purposes provided at least one assessment is conducted in person.²²

Residents in regional and remote areas may face additional barriers to accessing VAD in comparison to residents of metropolitan areas. These barriers may include:

- finding eligible medical practitioners in remote areas;
- restrictions on the ability to communicate via telehealth; and
- disproportionate effect of conscientious objectors in remote areas.²³

In the NT, more than 45 per cent of the population live in rural and remote areas. This is significantly more than the national average of 28 per cent.²⁴ As noted in earlier in this Consultation Paper, the burden of disease is higher in rural and remote areas of the NT.²⁵ Whilst NT Health service locations are spread broadly across the NT, geographic challenges remain.

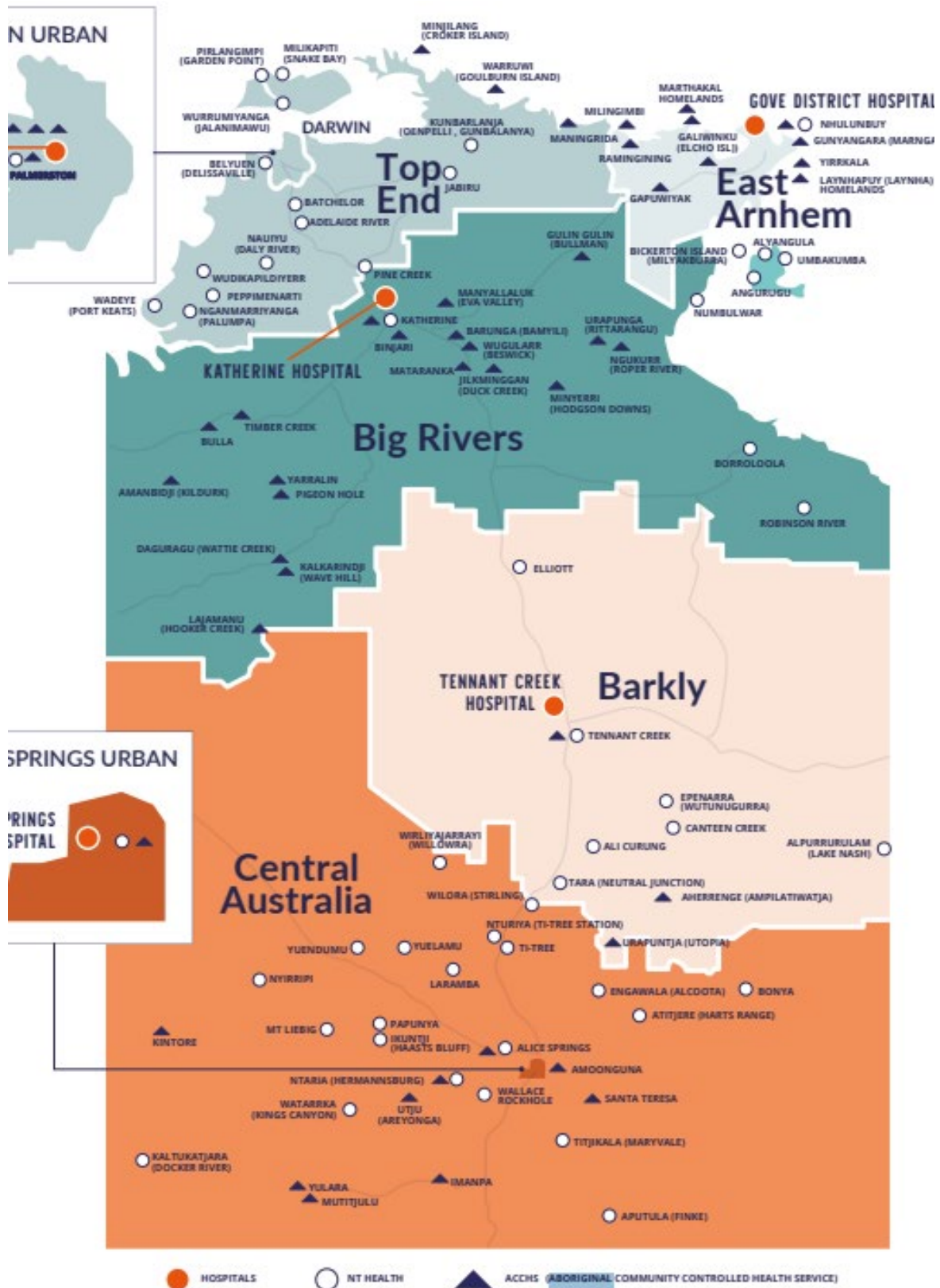
²² *Voluntary Assisted Dying Final Report*, above n 4, Recommendation 13.

²³ Willmott L, Haining CM, White BP. 'Facilitating regional and remote access to voluntary assisted dying in Western Australia: targeted initiatives during the law-making and implementation stages of reform'. *Rural and Remote Health* 2023; 23: 7522.

²⁴ Australian Institute of Health and Welfare, *Rural and remote health* (2024), <https://www.aihw.gov.au/reports/rural-remote-australians/rural-and-remote-health>.

²⁵ NT Health, *Morbidity burden of disease and injury in the Northern Territory 2014–2018* (2023), p. 8.

Figure 3: NT Health service locations²⁶



Telehealth

Telehealth enables a person to consult with a healthcare provider by phone or video call and may enable greater access to health services to people in remote areas. Telehealth can provide positive impacts for the provision of healthcare in remote Aboriginal communities.²⁷

Telehealth is used during the VAD process in some other international jurisdictions, including New Zealand,²⁸ and Canada.²⁹ However, the use of a carriage service (for example, phone calls) to counsel or incite suicide is a criminal offence under Australian Commonwealth law.³⁰ This prohibition extends to using telehealth for the purposes of VAD.³¹ There have been some attempts to remove this prohibition in the Commonwealth Parliament; however these have been unsuccessful.³²

The use of telehealth has been a key issue in VAD Review Board annual reports across Australia. Broadly, other jurisdictions have noted that the Commonwealth prohibition negates accessibility to VAD for residents in regional and remote areas. It was also noted that the prohibition on telehealth may inhibit a person's ability to access a suitable interpreter.³³ Consideration will need to be given as to how to provide equitable access to VAD in remote areas in the absence of telehealth services.

Equity of access principles

Several jurisdictions, including Western Australia (WA), New South Wales (NSW), Queensland and Tasmania, have embedded principles in their VAD Acts providing for equity of access to VAD for residents of regional and remote areas. These principles do not create specific legal obligations. However, they guide the interpretation of the VAD Acts. Consideration may be given to embedding this principle in an NT context.

Some jurisdictions have expressly included consideration of remote and regional access to VAD as part of the annual reports the responsible Minister must table in Parliament on the use of VAD. For example, NSW requires that the review of the operation of its VAD Act must consider the principle that 'a person who is a regional resident is entitled to the same level of access to voluntary assisted dying and high-quality care and treatment, including palliative care and treatment, as a person who lives in a metropolitan region'.³⁴

²⁶ NT Government, Department of Health, *Annual Report 2023-24*, p. 15.

²⁷ A C Smith, N R Armfield and L J Caffery 2019, 'Telehealth a game changer: closing the gap in remote Aboriginal communities', *Medical Journal of Australia* 211(1), p. 43.

²⁸ *End of Life Choice Act 2019* (NZ), s 8.

²⁹ S Muttit, 'Integrating Telehealth into Aboriginal Healthcare: The Canadian Experience', *International Journal of Circumpolar Health* 63 (2004), 401.

³⁰ *Commonwealth Criminal Code Act 1995* (Cth), s 474.29A2.

³¹ *Carr v Attorney-General (Cth)* [2023] FCA 1500.

³² See, for example, Criminal Code Amendment (Telecommunications Offences for Suicide Related Material—Exception for Lawful Voluntary Assisted Dying) Bill 2024.

³³ Western Australian Government, Voluntary Assisted Dying Act Review Panel, *Statutory Review – Voluntary Assisted Dying Act 2019 - Final Report 2024* (2024), p. 5.

³⁴ *Voluntary Assisted Dying Act 2022* (NSW), s 186(2)(b).

Regional access support services

During the implementation phase of VAD, additional steps may be taken to provide for greater equity of access to regional and remote areas. Some jurisdictions have specific schemes which support VAD access for non-metropolitan residents, including travel subsidies. For example, Queensland provides QVAD-Access, a travel subsidy arrangement that helps people in regional, rural and remote areas to access VAD when it is not available locally. Similarly, WA's Regional Access Support Scheme provides travel assistance and support for remote patients and practitioners. Some jurisdictions specifically have these services to enable Aboriginal and Torres Strait Islander people to finish up on Country.

Other jurisdictions fund visiting doctors to regional and remote areas as part of their VAD schemes. For example, in NSW, funded Visiting Medical Officers provide Voluntary Assisted Dying (VAD) services in specific regional areas. Consideration may be given to services that would be required in the NT during the implementation phase of VAD.

Questions for consideration

- How can we make sure people in remote or regional communities can access VAD fairly and safely if they wish?

Aboriginal and Torres Strait Islander cultural safety

2024 Expert Panel Recommendation 6

The process for addressing Aboriginal and Torres Strait Islander cultural safety issues needs to be designed and resourced as a core part of the operationalisation of VAD.³⁵

Consideration of the cultural safety of Aboriginal and Torres Strait Islander people would form an important part of VAD legislation in the NT.

Cultural safety issues

Cultural safety is about how the experience of individuals' care, ability to access services, and raise concerns, is safer when health practitioners have considered cultural contexts, power relations, and individual rights.³⁶

There are diverse views on VAD amongst Aboriginal and Torres Strait Islander people. Whilst recognising that there is no single set of needs or view on VAD, it is important to note that Aboriginal and Torres Strait Islander people may face specific challenges in the context of a VAD service.³⁷ These potential challenges include:

- **Past experiences with the health care system:** Some Aboriginal and Torres Strait Islander people may have had difficult experiences with government and health

³⁵ *Voluntary Assisted Dying Final Report*, above n 4, Recommendation 6.

³⁶ NT Government, NT Health, *Aboriginal Cultural Security Framework 2016 - 2026* (2016), p. 6.

³⁷ *Voluntary Assisted Dying Final Report*, above n 4, pp. 126-127.

care services in the past. This may make it challenging to trust existing NT Health services or new services like VAD navigator services.

- **Family and kinship-based decision-making:** In many Aboriginal and Torres Strait Island cultures, big decisions are often made with the family or community, not just by one person.³⁸
- **Language and communication barriers:** English may not be the first language for many people. Cross-cultural communication is another potential challenge.
- **Different understandings of illness and dying:** People may think about sickness, death and suffering differently depending on their cultural background.
- **Challenges in remote areas:** 74.1 per cent of Aboriginal Territorians live in rural or remote areas.³⁹ People in remote areas may have trouble accessing VAD services due to distance.⁴⁰

There are no guiding cultural safety principles built into VAD legislation in other Australian States and Territories. Consideration may be given to whether cultural safety should be a guiding principle of the VAD Act in the NT.

Co-designing VAD

Co-design is a public policy approach where government agencies work with affected communities to better understand problems and create solutions together. This may be a strategy for ensuring equity for Aboriginal and Torres Strait Islanders.⁴¹ Effective co-design requires embedded cultural safety, shared power in decision-making, and tailored approaches.⁴² This may ensure support services are adaptable to changing local contexts, ensuring they continue to meet the needs of communities.

Other jurisdictions have incorporated the views of Aboriginal and Torres Strait Islander people into their VAD models. In the context of South Australia (SA), SA Health ‘works with the Aboriginal Health Council of South Australia and South Australian Aboriginal Community Controlled Health Organisations (ACCHO) to co-design the voluntary assisted dying model of care’.⁴³ Consideration should be given to how peak bodies and ACCHOs could be included in a co-design process.

Guidance for Aboriginal and Torres Strait Islander people

Additional guidelines for Aboriginal and Torres Strait Islander people are an option to help ensure equity of access to VAD. NSW, Queensland and WA provide specific

³⁸ *Voluntary Assisted Dying Final Report*, above n 4, pp. 126-127.

³⁹ NT Government, NT Health, *Annual Report 2023-24* (2024), p. 16.

⁴⁰ *Voluntary Assisted Dying Final Report*, above n 4, pp. 126-127.

⁴¹ K Anderson et. al., ‘Development of Key Principles and Best Practices for Co-Design in Health with First Nations Australians’. *International Journal of Environment Research and Public Health* 20(1) (2024).

⁴² National Indigenous Australians Agency, *Co-Design Lessons Learned Report* (2023), <https://www.niaa.gov.au/sites/default/files/documents/2024-05/co-design-lessons-learned-report.pdf>.

⁴³ South Australian Government, SA Health, *Voluntary Assisted Dying Bard Annual Report 2022-23* (2023).

guidance to Aboriginal and Torres Strait Islander people.⁴⁴ These include information about the VAD process, including options for assistance for returning to Country.

Questions for consideration

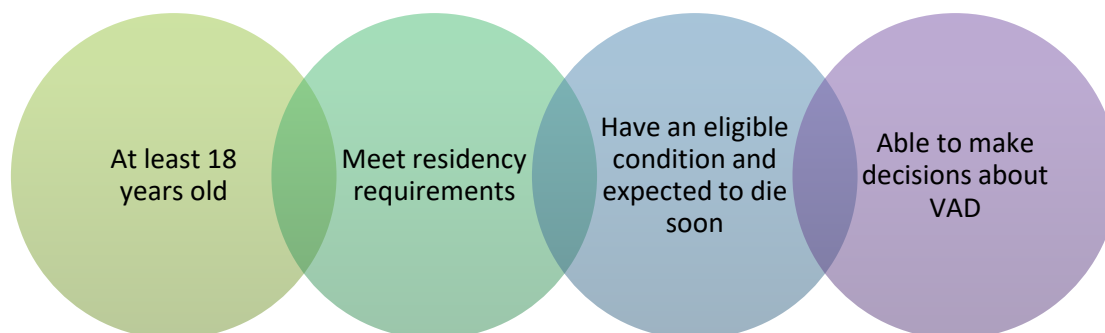
- How could a VAD system be built in a way that is respectful and sensitive to past experiences and trauma of Aboriginal and Torres Strait Islander people if there is support for VAD in the community?
- How can Aboriginal and Torres Strait Islander people be involved in designing how VAD works in their communities? What avenues are there to create ongoing conversations or partnerships to ensure the VAD system is culturally safe?
- How can communities report concerns or feedback in a culturally safe and confidential way?
- What information and support do health workers need to better understand and respect different cultural beliefs about illness, dying and end-of-life care?

⁴⁴ Queensland Government, Voluntary Assisted Dying Queensland, *Information for Aboriginal peoples and Torres Strait Islander peoples* (2025), https://www.qld.gov.au/_data/assets/pdf_file/0025/336841/QVAD-Information-for-Aboriginal-peoples-and-Torres-Strait-Islander-peoples.pdf; NSW Government, Information for Aboriginal communities (2025), <https://www.health.nsw.gov.au/voluntary-assisted-dying/Pages/aboriginal-communities.aspx>.

4 Consultation Topic 3: Eligibility

'Eligibility' refers to the criteria that determines whether a person can access VAD. Typically, a person must meet all these criteria if they want to access VAD.

Figure 4: Proposed eligibility criteria for VAD



Minimum age

2024 Expert Panel Recommendation 9

To access VAD in the NT, a person should be aged 18 years or older.⁴⁵

All Australian jurisdictions limit access to VAD to individuals over the age of 18. This minimum age is consistent with the legal age of adulthood in each jurisdiction and stems from the ability of a person to have decision-making capacity in relation to VAD.⁴⁶

Some international jurisdictions provide for VAD access to minors. For example, the Netherlands allows access for minors aged 12 and over.⁴⁷ Some Australian jurisdictions have considered not setting an age limit for accessing VAD.⁴⁸ It is proposed that NT VAD legislation will only be accessible to eligible people over 18 years old. This is also consistent with what was previously legislated under the ROTI Act.

Question for consideration

- Should 18 years be the minimum age for accessing VAD? Why or why not?

⁴⁵ *Voluntary Assisted Dying Final Report*, above n 4, Recommendation 9.

⁴⁶ Queensland Law Reform Commission, *A legal framework for voluntary assisted dying* (2021), p. 147.

⁴⁷ *The Netherlands Termination of Life on Request and Assisted Suicide (Review Procedures) Act 2001*, s 2(2).

⁴⁸ Legislative Assembly for the Australian Capital Territory, Select Committee on the Voluntary Assisted Dying Bill 2023, *Inquiry into the Voluntary Assisted Dying Bill 2023* (2024), p. 42.

Residency

2024 Expert Panel Recommendation 8

To access VAD in the NT, a person should have ordinarily resided in Australia for two years and in the Territory for 12 months. Exceptions should apply for cross-border communities and those with personal connections to the NT, particularly in relation to family, cultural and/or support links.⁴⁹

All Australian jurisdictions have a requirement for residency. There are two aspects to this requirement. A person accessing VAD must have:

- 1) Australian citizenship or residency; and
- 2) Residency in the State or Territory in which the VAD legislation operates.

The NT could mirror these requirements. The 2024 Expert Panel Report proposed that, to access VAD in the NT, a person should have ordinarily resided in Australia for two years and in the Territory for 12 months.

Given the NT is the last jurisdiction to implement VAD legislation, some may argue that this may negate the need for a residency requirement in the NT. However, if the NT model for VAD varies significantly from the model implemented in other Australian jurisdictions, it may lead to people travelling to the NT to access VAD.

Residency exemptions

An important question is how to ensure equitable access to VAD for eligible residents in cross-border communities and those with personal connections to the NT. Consideration may be given to what exemptions should apply.

Some jurisdictions have developed exemptions to residency requirements. For example, the Australian Capital Territory (ACT), NSW and Queensland enable a person to apply for an exemption to the local residency requirements if they have a 'close' or 'substantial' connection to the State or Territory.⁵⁰ For example, the person may live in a border community or work or receive medical treatment in the State or Territory. Exemptions may also extend to people with local family or former residents whose families reside in the State or Territory. There are also compassionate grounds for granting exemptions.

Some jurisdictions establish specific exemptions from residency requirements for Aboriginal and Torres Strait Islander people. For example, the ACT allows exemptions for Aboriginal or Torres Strait Islander individuals with substantial connections with the ACT community who wish to finish up on Country.⁵¹ Consideration may need to be given to similar provisions in the NT.

⁴⁹ *Voluntary Assisted Dying Final Report*, above n 4,, Recommendation 8.

⁵⁰ *Voluntary Assisted Dying Act 2022* (NSW), s 17; *Voluntary Assisted Dying Act 2021* (Qld), s 12; *Voluntary Assisted Dying Act 2024* (ACT), s 154.

⁵¹ *Voluntary Assisted Dying Act 2024* (ACT), s 154.

Questions for consideration

- How can we ensure that cross-border residents are treated fairly under NT VAD laws?
- What specific exemptions may be needed for Aboriginal or Torres Strait Islander individuals who want to return to the NT to finish up on Country?

Eligible condition

2024 Expert Panel Recommendation 10

To access VAD in the NT, a person should have a serious and incurable condition which is causing intolerable and enduring suffering that cannot be relieved in a manner they feel is acceptable. VAD eligibility should be based on a prognosis of 12-months at the time of being assessed, irrespective of diagnosis and if the patient meets all other requirements.⁵²

To access VAD, in all Australian jurisdictions a person must have a serious and incurable disease or condition known as an 'eligible condition'. Eligible conditions are clearly defined in the VAD Acts of each jurisdiction. In general, a person has an eligible condition if they are diagnosed with at least one disease, illness or medical condition that is:

- incurable, advanced and progressive;
- expected to cause death within 6 or 12 months (known as prognosis); and
- causing suffering that cannot be relieved in a way considered tolerable by the person.⁵³

The most common eligible conditions of people accessing VAD have been cancer, neurological/neurodegenerative diseases, and respiratory diseases.⁵⁴

Incurable, advanced and progressive

In all Australian jurisdictions, a person must have an illness, disease or condition that is incurable, advanced and progressive. The NT could adopt the approach of other Australian jurisdictions. In some international jurisdictions, a person does not have to have a particular eligible condition that is likely to cause their death. Instead, VAD is granted based on the seriousness of their condition and their level of suffering.⁵⁵

⁵² *Voluntary Assisted Dying Final Report*, above n 4, Recommendation 10.

⁵³ *Ibid.*, pp. 57-58.

⁵⁴ Tasmanian Government, *Voluntary Assisted Dying Commission Annual Report 2022-23 (2023)*, p. 14; WA Department of Health, *Voluntary Assisted Dying Board Western Australia Annual Report 2023-24 (2024)*, p. 22; Queensland Government, *Queensland Voluntary Assisted Dying Review Board Annual Report 2023-24 (2024)*, p. 13; NSW Government, *NSW Voluntary Assisted Dying Board Annual Report 2023-24 (2024)*, p. 6.

⁵⁵ *Belgian Euthanasia Act 2002*, Article 3, § 1; *Luxembourg Law on Euthanasia and Assisted Suicide 2009*, Article 2 ss 1(3), 4(3); *The Netherlands Termination of Life on Request and Assisted Suicide (Review Procedures) Act 2001*, s 2(1)(b); *Canada Criminal Code*, RSC 1985, c C46, s 241.2(1)(c), (2).

Prognosis

In all Australian States and Territories, a person can only access VAD if a medical practitioner expects them to die within 12 months in the case of a neurodegenerative disease or within 6 months for other conditions (except Queensland which requires 12 months for all conditions).⁵⁶ If a person is assessed for eligibility and they are not expected to die within that timeframe, they are not prevented from requesting another assessment in the future if their condition worsens. Overseas (in Belgium, Luxembourg, the Netherlands and Canada, for example), VAD eligibility does not include a prescribed timeframe for death.⁵⁷ It is proposed that in the NT, VAD eligibility should be based on a prognosis of 12 months at the time of being assessed, irrespective of diagnosis and if the patient meets all other requirements.

Suffering

Suffering is a prerequisite in all Australian VAD frameworks. The majority of jurisdictions require a medical practitioner to confirm that a person's suffering is caused by one particular medical condition rather than by psychological feelings about their condition. Some jurisdictions specify that suffering may be physical or mental. For example, in the context of the ACT and Tasmania, suffering may be expected, anticipated or actual, and may stem from a combination of conditions and other factors (i.e., complications arising from treatment).⁵⁸ Consideration may be given to defining suffering in the NT.

Questions for consideration

- Is a 12-month prognosis an appropriate timeframe for eligibility for VAD? Should it be shorter or longer?
- How should suffering be defined in the context of VAD eligibility?

Decision-making capacity

2024 Expert Panel Recommendation 11

To access VAD in the NT, a person must have decision-making capacity at all stages. VAD should not be available for persons solely diagnosed with a mental illness.⁵⁹

In all Australian jurisdictions, a person must have decision-making capacity throughout the whole VAD process. This means that a person can understand all factors that contribute to their decisions, including options and consequences. Each jurisdiction has their own 'capacity test' for determining whether a person can make a medical decision.⁶⁰ This requirement is intended to ensure that a person's decision to take part

⁵⁶ See, for example, *Voluntary Assisted Dying Act 2024* (ACT), ss 11(3)(c), 6.

⁵⁷ See Queensland Law Reform Commission (2021), *A legal framework for voluntary assisted dying*, pp. 88-89.

⁵⁸ *End of Life Choices (Voluntary Assisted Dying) Act 2021*(Tas), s 14; *Voluntary Assisted Dying Act 2024* (ACT), s 11(4).

⁵⁹ *Voluntary Assisted Dying Final Report*, above n 4, Recommendation 11.

⁶⁰ *End of Life Law Australia* (2025), *Capacity and Consent in Medical Treatment*, accessible at: <https://end-of-life.qut.edu.au/capacity#statetercap>.

in VAD is voluntary. This mirrors the requirements in most Australian jurisdictions for the decision to choose VAD to be made voluntarily and without coercion.⁶¹

In the NT, VAD legislation could require decision-making capacity at all stages of the VAD process. The NT has an existing legal framework for end-of-life decision-making, including:

- *Health Care Decision Making Act 2023* (NT);
- *Advance Personal Planning Act 2013* (NT); and
- *Guardianship of Adults Act 2016* (NT).⁶²

Additionally, there is guidance on medical decision-making capacity in the NT.⁶³ Consideration may need to be given to how the criteria for determining VAD decision-making capacity would interact with the NT's existing health decision-making legislation and whether additional guidance on decision-making capacity in relation to VAD is required.

Loss of decision-making capacity

It is noted that there may be progressive diseases, such as dementia, which may impact a person's decision-making capacity. Some countries (such as Belgium, the Netherlands and Canada) have advanced directives which allow people to consent to VAD in advance for a future time when they no longer have decision-making capacity, such as after developing dementia or another cognitive condition.⁶⁴ However, no Australian jurisdiction has an advance directive model. It is similarly not proposed to adopt this model in the NT. The issue of using advance directive models may be considered in future reviews in other jurisdictions. For example, the ACT will consider this issue in its first review of its VAD Act in 2027.⁶⁵

Mental illness

In all other Australian jurisdictions, VAD is not available for people who are solely diagnosed with a mental illness. This is on the basis that mental illness is not regarded clinically as a terminal condition.⁶⁶ However, a person with mental illness is eligible for VAD if they meet all other criteria on the basis that they should not be discriminated against or denied access.⁶⁷ It is noted that, previously in the NT, the ROTI Act required

⁶¹ *Voluntary Assisted Dying Act 2024* (ACT) s 11(1)(e); *Voluntary Assisted Dying Act 2022* (NSW) s 16(1)(f) and (g); *Voluntary Assisted Dying Act 2021* (Qld) s 10(1)(c); *Voluntary Assisted Dying Act 2021* (SA) s 26(1)(e); *End of Life Choices (Voluntary Assisted Dying) Act 2021* (Tas) s 10(1)(d) and s 13; *Voluntary Assisted Dying Act 2019* (WA) s 16(1)(e); *Voluntary Assisted Dying 2018* (Vic), s ss 20(1)(c), 29(1)(c).

⁶² *End of Life Law, Treatment Decisions – Northern Territory* (2025), <https://end-of-life.qut.edu.au/treatment-decisions/adults/state-and-territory-laws/northern-territory>.

⁶³ NT Government, Public Guardian and Trustee Guideline, *Determining decision making capacity for a health care decision* (2025), pp. 7-8.

⁶⁴ See, for example, *Belgian Euthanasia Act 2002* art 4; *Luxembourg Law on Euthanasia and Suicide 2009*, art 4.

⁶⁵ *Voluntary Assisted Dying Act 2024* (ACT), s 162(2)(b)(iii).

⁶⁶ *Voluntary Assisted Dying Final Report*, above n 4, p. 59.

⁶⁷ Queensland Law Reform Commission, *A legal framework for voluntary assisted dying* (2021), p. 93.

a psychiatrist to assess that a person is not suffering from treatable depression prior to granting access to VAD.⁶⁸ No other Australian jurisdictions have this requirement.

Decision-making in Aboriginal and Torres Strait Islander cultures

In many Aboriginal and Torres Strait Islander cultures, decision-making is made collectively through kinship networks.⁶⁹ Consideration of different decision-making hierarchies are built into the *Health Care Decision Making Act 2023 (NT)*.⁷⁰ Specific guidance is also available on medical decision-making in Aboriginal and Torres Strait Islander contexts.⁷¹

In the context of specifying requirements about decision-making capacity, consideration should be given to how this could impact Aboriginal and Torres Strait Islander people and any exemptions and/or flexibility that would need to be built into potential VAD legislation. Additional consideration may also need to be given to interaction with other NT medical decision-making laws.

Questions for consideration

- How can we ensure that people with progressive diseases are protected but also treated fairly as part of a VAD framework?
- What support is needed to assess a person's capacity to make decisions about VAD?
- How can the eligibility criteria incorporate culturally safe practices for Aboriginal and Torres Strait Islander people?
- How could NT VAD legislation interact with existing medical decision-making legislation?

⁶⁸ *Rights of the Terminally Ill Act 1995 (NT)*, s 7(c)(ii).

⁶⁹ S Lewis, L Willmott, B P White, C La Brooy and P Komesaroff, 'First Nations Perspectives in Law-Making About Voluntary Assisted Dying'. *Journal of Law and Medicine*, 29(4) (2022), pp.1168–1181.

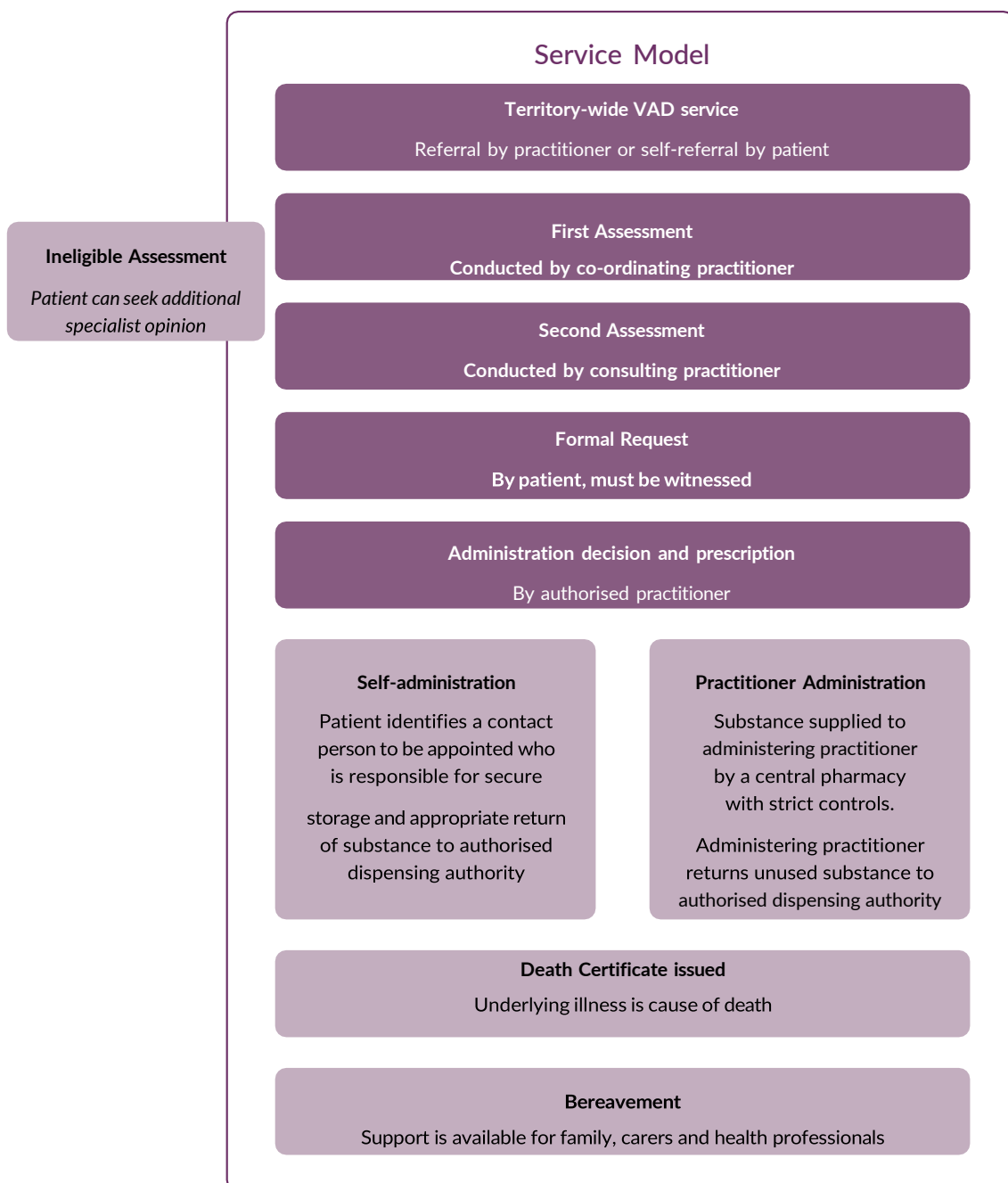
⁷⁰ *Health Care Decision Making Act 2023 (NT)*, s 13(c).

⁷¹ NT Government, Public Guardian and Trustee, *Determining the appropriate health care decision maker guideline* (2025), pp. 7-8.

5 Consultation Topic 4: VAD Process

In jurisdictions across Australia, the processes to access VAD share many similarities but also a number of significant differences. The following section outlines the process that was proposed as the most appropriate for implementation in the NT in the 2024 Expert Panel Report.

Figure 5: VAD Process Proposed in 2024⁷²



⁷² Voluntary Assisted Dying Final Report, above n 4, p. 62.

Qualifications and training

2024 Expert Panel Recommendation 3

VAD assessments must be conducted by appropriately trained medical practitioners only. VAD practitioners must undergo mandatory training and hold appropriate qualifications.⁷³

VAD practitioners fulfil three distinct and essential roles: a coordinating practitioner and a consulting practitioner who are responsible for assessing patient eligibility, and an administering practitioner in charge of administering VAD substances.⁷⁴

Qualifications for Coordinating and Consulting Practitioners

Coordinating and consulting practitioners are medical practitioners,⁷⁵ except in the ACT where experienced nurse practitioners are permitted to fulfill this role.⁷⁶ The minimum qualification and experience requirements for medical practitioners vary between the jurisdictions as shown in the table below.

Table 2: Qualification Requirements for VAD Practitioners⁷⁷

	VIC	WA	TAS	SA	QLD	NSW	ACT
Start date	19 June 2019	1 July 2021	23 October 2022	31 January 2023	1 January 2023	28 Nov 2023	N/A at time of print
Specialist Registration	5 Years	1 Year	5 Years	5 Years	1 Year	No minimum	1 Year
General Registration	Not Permitted	10 Years	Not Permitted	Not Permitted	5 Years	10 Years	Not Permitted
Nurse practitioner	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	1 Year
Overseas Trained Specialist (provision registration)	X	✓	X	X	✓	X	X
Mandatory training before assessing	✓	✓	✓	✓	✓	✓	✓
Conflict of Interest	X	✓	✓	✓	✓	✓	✓

⁷³ *Voluntary Assisted Dying Final Report*, above n 4, Recommendation 3.

⁷⁴ *Ibid.* p. 33.

⁷⁵ See for example, *Voluntary Assisted Dying Act 2019 (WA)* s 17; *End-of-Life Choices (Voluntary Assisted Dying) Act 2021 (Tas)*, s 9

⁷⁶ *Voluntary Assisted Dying Act 2024 (ACT)*, s 89

⁷⁷ *Voluntary Assisted Dying Final Report*, above n 4, p. 35.

Enabling nurse practitioners to be coordinating and consulting practitioners may present difficulties in the NT due to the shortage of suitably qualified nurse practitioners. There is a need to strike a balance between equity and access to VAD, while ensuring there are appropriate safeguards that consider the composition and cultural safety of the NT population.

In 2024, it was proposed that in the NT, coordinating and consulting practitioners should be qualified medical practitioners with at least five years registration, or one year of specialist registration.⁷⁸

Qualifications for administering practitioners

The administering practitioner can be the coordinating practitioner or an appropriately trained nurse practitioner in all jurisdictions⁷⁹, except Victoria where only the coordinating medical practitioner may administer the VAD substance.⁸⁰ In the ROTI Act, only a medical practitioner could assist a patient to end their own life.⁸¹

Enabling a nurse to be an administering practitioner gives more flexibility in the process, alleviates the potential strain on coordinating practitioners and provides an additional check and balance safeguard by making the roles distinct and separate.⁸²

The option of allowing a nurse to be an administering practitioner is a consideration for an NT model.

Mandatory training

Each State law requires practitioners to do mandatory training before they can accept a request from a patient to assess their eligibility for VAD.⁸³

In 2024, it was proposed that the mandatory training in the NT should encompass more than compliance and understanding of the functions of the legislation. This may include training on ethics, communication with patients and their families, grief and bereavement support, telehealth assessments (if telehealth for VAD is permitted under the legislation) and cultural safety.⁸⁴ It was proposed that strategies to incentivise training include making it eligible for Continuing Medical Education (CME) points.⁸⁵

Questions for consideration

- Who should be permitted to be a person's coordinating or consulting practitioner? For example, a registered medical practitioner, a nurse practitioner, or someone else? How many years of medical experience should they have?

⁷⁸ *Voluntary Assisted Dying Final Report*, above n 4, p. 36.

⁷⁹ See for example, *Voluntary Assisted Dying Act 2022 (NSW)*, s 55; *Voluntary Assisted Dying Act 2019 (WA)*, s 54.

⁸⁰ *Voluntary Assisted Dying Act 2017 (Vic)* s 64

⁸¹ *Rights of the Terminally Ill Act 1995 (NT)* Part 2

⁸² *Voluntary Assisted Dying Final Report*, above n 4, pp. 36-37

⁸³ Go Gentle Australia, *Resources for Health Professionals* (2025),

https://www.gogentleaustralia.org.au/become_a_vad_practitioner.

⁸⁴ *Voluntary Assisted Dying Final Report*, above n 4, pp. 37-38

⁸⁵ *Ibid.*

- Which health practitioners should be able to administer the VAD substance? For example, a registered medical practitioner, a nurse practitioner, registered nurse, or someone else? How many years of medical experience should they have?
- What topics should be covered in the mandatory training for VAD practitioners?

Eligibility assessments and requests

2024 Expert Panel Recommendation 14, 15, and 16

The VAD assessment process should involve two stages of assessment conducted by appropriately qualified medical practitioners.⁸⁶

Following the assessment phase, the person must make a formal request for VAD in writing which is independently witnessed. Provision should be made where a person is physically unable to provide a formal written request. The timeframe before a formal request may be made should be broadly consistent with timeframes in VAD legislation in other Australian jurisdictions.⁸⁷

The VAD process should not require the issuing of a permit but rather allow the Coordinating Practitioner to approve the request and issue a prescription, subject to strict reporting requirements.⁸⁸

Assessments

In all jurisdictions, excluding the ACT, assessment of eligibility for VAD must be completed by two appropriately trained, qualified and experienced medical practitioners.⁸⁹ The ACT allows nurse practitioners to conduct one of the assessments.⁹⁰ The ROTI Act also required two medical practitioners to assess and confirm that the person requesting VAD had an eligible illness and was likely to die as a result of the illness.⁹¹

In 2024, it was proposed that in the NT there also be a requirement for two assessment stages by qualified medical practitioners (i.e. the coordinating and consulting practitioners). During these assessments, the practitioners must:

- consider whether the person meets all of the eligibility requirements for VAD;
- consider whether there is any undue pressure or abuse affecting their decision; and
- provide specified information to the person about diagnosis, treatment options, life expectancy, and the VAD process.

⁸⁶ *Voluntary Assisted Dying Final Report*, above n 4, Recommendation 14.

⁸⁷ *Ibid*, Recommendation 15.

⁸⁸ *Ibid*, Recommendation 16.

⁸⁹ See, for example, *Voluntary Assisted Dying Act 2022 (NSW)*, s 25; *Voluntary Assisted Dying Act 2021 (QLD)*, s 19. Refer to the section on 'Qualifications and training' for what is considered an appropriately experienced practitioner.

⁹⁰ *Voluntary Assisted Dying Act 2024 (ACT)*, ss 89, 97(3).

⁹¹ *Rights of the Terminally Ill Act 1995 (NT)*, s 7.

The 2024 Expert Panel Report proposed the NT legislation would not prescribe how assessors should undertake assessments as it is considered that this is best left to clinical judgement with guidance provided in clinical guidelines.⁹²

In all other jurisdictions, the first assessment is completed by a coordinating practitioner and the second assessment by a consulting practitioner.⁹³ These roles have slightly different titles depending on the jurisdiction. The coordinating practitioner leads the care of the patient and is required to locate a doctor to provide a consulting assessment.⁹⁴ It was proposed these roles be adopted in the NT, with the centralised model for VAD allowing the NT to develop a team-based approach to care.

SA and Victoria require either the coordinating practitioner or each consulting practitioner to have relevant expertise and experience in the disease, illness or medical condition expected to cause the death of the person being assessed.⁹⁵ In 2024, it was proposed that this is not a requirement in the NT as it could lead to a significant barrier to access VAD,⁹⁶ noting there are major resourcing gaps in many health specialties across the NT.⁹⁷ Rather, a practitioner would use their clinical judgement to assess whether specialist advice is required.⁹⁸ This could include interpretation of a patient's needs, concerns or health problems, and/or the decision to take action, modify standard approaches, or improve new ones as appropriate for the patient.⁹⁹

The ROTI Act also required a psychiatrist to assess and confirm that the person requesting VAD was not suffering from treatable clinical depression in respect of the illness. Refer to the section on 'Decision-making capacity' for an in-depth discussion of VAD and mental illness.¹⁰⁰

Requests

In all jurisdictions, following assessments, there must be three requests to access VAD. One request must be in writing with two witnesses present for the written request, with flexibility built in for people who cannot sign a written request themselves.¹⁰¹

Multiple requests act as coercion prevention measures and the formality of a signature is another safeguard to ensure the request is voluntary, enduring and comes from the person themselves. It was proposed that the NT will only require two requests, with one required to be written and signed.¹⁰²

⁹² *Voluntary Assisted Dying Final Report*, above n 4, p. 68.

⁹³ End of Life Law Australia, *Voluntary Assisted Dying* (2025), <https://end-of-life.qut.edu.au/assisteddying>

⁹⁴ *Voluntary Assisted Dying Final Report*, above n 4, p. 66.

⁹⁵ *Voluntary Assisted Dying Act 2021* (SA), s 27; *Voluntary Assisted Dying Act 2017* (Vic), s 10.

⁹⁶ *Ibid*, p. 66-67.

⁹⁷ Upton, D and Ruwanpura, V, A Northern Territory-trained health workforce is required to meet its context-specific disease burden and health care needs, *Medical Journal of Australia*, 2024.

⁹⁸ *Voluntary Assisted Dying Final Report*, above n 4, p. 66-67.

⁹⁹ Tanner, C. A, Thinking like a nurse: A research-based model of clinical judgment in nursing, *Journal of Nursing Education*, (2006), 204-211.

¹⁰⁰ *Rights of the Terminally Ill Act 1995* (NT), s 7.

¹⁰¹ See for example, *Voluntary Assisted Dying Act 2019* (WA) Divisions 2, 5 and 6; *Voluntary Assisted Dying Act 2021* (SA), Division 3; *Voluntary Assisted Dying Act 2021* (QLD), Divisions 1, 4 and 5.

¹⁰² *Voluntary Assisted Dying Final Report*, above n 4, p. 69 and 98.

In all other States, VAD legislation requires that a final request cannot be made until the end of a determined timeframe after the first request to ensure the person's request is enduring and not coerced.¹⁰³ In cases where the person may die or lose capacity if required to await the determined timeframe, the Coordinating Practitioner and Consulting Practitioner can authorise an earlier request.¹⁰⁴ For example, the legislation in Victoria and WA ordinarily requires a period of at least nine days between a person's first and final requests.¹⁰⁵ In 2024, it was proposed that the NT will introduce provisions that are similar to other jurisdictions.¹⁰⁶

Permits

In Victoria and SA there is a requirement to seek a formal permit from the Review Board or Commission, or from the relevant department CEO to access VAD. The coordinating practitioner may then issue a prescription for the VAD substance.¹⁰⁷ Research has found that the permit system such as that in Victoria is bureaucratic and causes unnecessary delay considering the many other safeguards in place.¹⁰⁸

Other jurisdictions leave the management of the process to the coordinating practitioner, subject to strict reporting requirements to the Review Board.¹⁰⁹ For example, in WA decisions are made in consultation with and on the advice of the coordinating practitioner which supports autonomy and is aligned with principles of the person-centred care.¹¹⁰ In the NT, it was proposed that this system is implemented to reduce the number of external decision makers and to respect the autonomy of the person seeking VAD.¹¹¹

Questions for consideration

- What process should be in place to ensure that an eligible person's access to VAD is safe and effective? How many stages should the assessment phase include? Should there be a requirement to seek specialist expertise during assessment?
- Should one request for VAD be required in writing? How should flexibility be built in for people who cannot physically write a formal request?
- Should witnesses be required for a person's formal requests for voluntary assisted dying? If so, who should be permitted to be a witness?
- Should interpreters be required to sign and certify a written request where they are involved?

¹⁰³ See, for example *Voluntary Assisted Dying Act 2017* (Vic), s 38; *Voluntary Assisted Dying Act 2019* (WA), s 48; *Voluntary Assisted Dying Act 2021* (SA), s 56.

¹⁰⁴ See, for example, *End-of-Life Choices (Voluntary Assisted Dying) Act 2021* (Tas), s 30(2).

¹⁰⁵ *Voluntary Assisted Dying Act 2017* (Vic), s 38(1)(a); *Voluntary Assisted Dying Act 2019* (WA), ss 48(1), (2)(a).

¹⁰⁶ *Voluntary Assisted Dying Final Report*, above n 4, p. 69.

¹⁰⁷ *Voluntary Assisted Dying Act 2021* (SA), s 23 and 24; *Voluntary Assisted Dying Act 2017* (Vic), Part 4 – Voluntary assisted dying permits 39.

¹⁰⁸ Victorian Voluntary Assisted Dying Review Board, *Annual Report 2021-22* (2022), pp. 12-13.

¹⁰⁹ *Voluntary Assisted Dying Final Report*, above n 4, p. 70.

¹¹⁰ Queensland Law Reform Commission, *A Legal Framework for Voluntary Assisted Dying*, p. 288

¹¹¹ *Voluntary Assisted Dying Final Report*, above n 4, p. 70.

- Should there be a set time that must lapse between the first and second request? What should this timeframe be?
- Should a permit be required before a person can access VAD? If so, at what stage should this permit be required?

Initiating a discussion about VAD

2024 Expert Panel Recommendation 12

Medical practitioners should be allowed to introduce the subject of VAD services to patients during discussion about treatment options.¹¹²

As each State has developed VAD legislation, a significant point of debate and decision-making has been the limitations, if any, on health care providers initiating the conversation about VAD with their patients. In Victoria, health practitioners are prohibited from mentioning VAD unless the patient brings up the subject first.¹¹³ Similar provisions exist in SA.¹¹⁴

However, in WA, Queensland and Tasmania laws permit health practitioners to introduce the topic of VAD¹¹⁵, as long as they also present all other options, including continued treatment and palliative care.¹¹⁶ The ROTI Act took this approach, as well as requiring the practitioner to inform the patient about “counselling and psychiatric support and extraordinary measures for keeping the patient alive, that might be available”.¹¹⁷

In 2024, it was proposed that in the NT, practitioners would be allowed to initiate discussions about VAD provided that the patient is informed of all treatment options including palliative care.¹¹⁸

Questions for consideration

- Should health practitioners be free to initiate a discussion about VAD, providing information alongside other treatment and management options such as palliative care? What other treatment options should be required to be discussed? For example, psychological support.

¹¹² *Voluntary Assisted Dying Final Report*, above n 4, Recommendation 12.

¹¹³ *Voluntary Assisted Dying Act 2017* (Vic), s 8.

¹¹⁴ *Voluntary Assisted Dying Act 2021* (SA), s 12.

¹¹⁵ *Voluntary Assisted Dying Act 2019* (WA), s 10(3); Queensland Health, *Clinical Excellence Division, Guide to Informed Decision-making in Health Care*, p. 60; *End-of-Life Choices (Voluntary Assisted Dying) Act 2021* (Tas) s 17(1) and (2).

¹¹⁶ *Voluntary Assisted Dying Final Report*, above n 4, p. 63.

¹¹⁷ *Rights of the Terminally Ill Act 1995* (NT), s 7(e).

¹¹⁸ NT Government, *Voluntary Assisted Dying Independent Expert Panel, Report into Voluntary Assisted Dying in the Northern Territory – Final Report 2024*, p. 63.

Health professionals who do not want to help with VAD

2024 Expert Panel Recommendation 4

Health professionals should be allowed to conscientiously object to participating in any VAD framework under NT legislation. Conscientious objectors should be required to inform requesting patients of VAD services. Residential facilities may not hinder residents from accessing VAD on site.¹¹⁹

Conscientious objection occurs when a doctor, as a result of a conflict with his or her own personal beliefs or values, refuses to provide, or participate in, a legal, legitimate treatment or procedure which would be deemed medically appropriate in the circumstances under professional standards. It is based on sincerely-held beliefs and moral concerns, not self-interest or discrimination.¹²⁰

Conscientious objection for individual practitioners

Medical practitioners must notify the patient of conscientious objection immediately in WA and NSW.¹²¹ In Victoria, Tasmania and SA a practitioner has seven days to respond.¹²² In Queensland and the ACT a practitioner must provide details of a navigator service.¹²³

The 2024 NT model proposed that every request by a patient for VAD be referred to the centralised VAD service. Those with a conscientious objection would be obliged to pass on information to a patient about the centralised VAD service as it would not be an undue interference with their conscientious objection.¹²⁴ Although the centralised VAD model provides a safeguard, it should still be considered whether health practitioners who conscientiously object or who choose to not participate in the VAD process should be required to declare their objection or non-participation to a person who is, or may be interested in, accessing VAD.

Conscientious objection at residential aged-care facilities

In Victoria, WA and Tasmania residential aged-care facilities can decide whether to provide VAD services and what support they offer to residents who are seeking VAD. They have no obligation to provide VAD services or support.¹²⁵ In SA, NSW, the ACT and Queensland, residential aged-care facilities should not impede a person's right to access VAD.¹²⁶ In those jurisdictions, residential facilities must:

¹¹⁹ *Voluntary Assisted Dying Final Report*, above n 4, Recommendation 4.

¹²⁰ Australian Medical Association, *Conscientious Objection – 2019* (2019), <https://www.ama.com.au/position-statement/conscientious-objection-2019>.

¹²¹ *Voluntary Assisted Dying Act 2019* (WA) s 31(5); *Voluntary Assisted Dying Act 2022 No 17* (NSW) s 21(3).

¹²² *Voluntary Assisted Dying Act 2017* (Vic) s 17; *End-of-Life Choices (Voluntary Assisted Dying) Act 2021* (Tas) s 20; *Voluntary Assisted Dying Act 2021* (SA) s 31.

¹²³ *Voluntary Assisted Dying Act 2024* (ACT) s 100; *Voluntary Assisted Dying Act 2021* (Qld) s 16(4).

¹²⁴ *Voluntary Assisted Dying Final Report*, above n 4, p. 40.

¹²⁵ *End of Life Directions for Aged Care, Voluntary assisted dying in aged care: Residential facilities in Victoria, Western Australia and Tasmania*, p. 3

¹²⁶ *Voluntary Assisted Dying Act 2021* (SA), Division 2, 3,4 and 5; *Voluntary Assisted Dying Act 2022 No 17* (NSW), Part 5 Division 2; *Voluntary Assisted Dying Act 2024* (ACT), Part 7; *Voluntary Assisted Dying Act 2021* (QLD), ss 90-97.

- allow a resident to receive information about VAD when they request it including allowing a medical practitioner to visit to provide information;
- allow a resident to make a first or final request for VAD at the residential facility; and
- support residents to access VAD services (i.e., to undertake eligibility assessments, make a formal written VAD request and take or be administered the VAD substance).¹²⁷

In 2024, it was proposed that in the NT, residential facilities should not be able to hinder permanent residents of the facility from accessing VAD on site, and should allow requests, assessments and administration of VAD for residents who wish to undergo VAD. This will respect residents' dignity, support delivery of optimal person-centred care, and not impede a person's right to access lawful treatments.¹²⁸

Questions for consideration

- If a health practitioner declines to be involved in a person's request for VAD, should they be required to take any particular action/s? If so, what action/s? For example, passing on information to a centralised VAD service.
- What categories of persons or professions should be permitted to conscientiously object to being involved in VAD? Should this be limited to registered health practitioners?
- Should health practitioners who conscientiously object or who choose to not participate in the VAD process be required to declare their objection or non-participation to a person who is, or may be, interested in accessing VAD? If so, when?
- Should a health service be permitted to not facilitate VAD at its facilities, for example at a residential aged care facility, a hospital, or accommodation for adults with a disability?

Administration of VAD substance

In Victoria, SA and Queensland self-administration is the default setting only allowing practitioner administration if self-administration is inappropriate or not possible.¹²⁹ NSW, the ACT and WA allow a person to choose practitioner or self-administration.¹³⁰ Annual reports from WA and NSW suggest that there is a clear preference for people to have clinician-assisted VAD.¹³¹

¹²⁷ End of Life Directions for Aged Care, *Voluntary assisted dying in aged care: Residential facilities in South Australia, Queensland, New South Wales, and the Australian Capital Territory* (2024), pp. 3-5, <https://www.eldac.com.au/Portals/12/Documents/Factsheet/Legal/VAD-aged-care-RACFs-SA-QLD-NSW.pdf>.

¹²⁸ *Voluntary Assisted Dying Final Report*, above n 4, p. 40-41

¹²⁹ *Voluntary Assisted Dying Act 2021 (SA)*, 64 (C); *Voluntary Assisted Dying Act 2021 (QLD)*, s 50(2); *Voluntary Assisted Dying Act 2017 (Vic)*, s 46(c)

¹³⁰ *Voluntary Assisted Dying Act 2022 (NSW)*, s 59 and 60; *Voluntary Assisted Dying Act 2024 (ACT)*, s 42; *Voluntary Assisted Dying Act 2019 (WA)*, ss 58-59.

¹³¹ NSW Voluntary Assisted Dying Board, *Annual Report 2023-2024* (2024), p. 15; Voluntary Assisted Dying Board Western Australia, *Annual Report 2023-24* (2024), p. 28.

In 2024, it was proposed that in the NT, a person can choose between self-administration and practitioner administration. That discussion should be part of the first assessment, and once a person's request is approved, the VAD service will then be able to start more detailed planning and risk management. Refer to the section on 'Supply, storage and disposal of a VAD substance' for further discussion on managing the risks associated with self-administration.

It was proposed that the capability to switch from self-administration to practitioner administration due to change of mind or circumstances be built into the legislation, with the proviso that the Review Board should be notified of any change and the reason for it, and the VAD substance (if already provided) should be returned to the Pharmacy Service and reissued to the administering practitioner.

The Care Navigator Service would assist with assessing patient safety and substance control issues, and encourage a person to take the safest course possible.¹³² Relevant assessment criteria for whether a person should be approved for self-administration rather than practitioner administration would be developed by the VAD service under the oversight of the Review Board.¹³³

Questions for consideration

- Should a person have a choice between self-administration and administration by an administering health professional of a VAD substance?
- Should one method of administration be prescribed as the default option, or should methods differ depending on the circumstances? Does this need to be prescribed in legislation, or is it a matter best determined between the registered medical practitioner and patient?
- Are additional safeguards required when an eligible health professional administers the VAD substance (compared with self-administration) and, if so, what safeguards would be appropriate?
- Should administration of the VAD substance to an eligible person be witnessed by another person? If so, who should be permitted to be a witness?

Contact person

In all other jurisdictions, a contact person must be appointed. They have responsibilities connected with the storage of the substance, disposal of the substance and reporting of the death of the person whether or not as a result of administration of a VAD substance. The contact person may handle and help prepare the substance, however the VAD recipient must actually take the substance themselves. They may be anyone over the age of 18. They must certify that they understand and accept their obligations and that the Review Board may ask them for information in relation to the

¹³² Refer to the part on the 'Care Navigator Service' in the 'Centralised model' section of this Consultation Paper for further detail on how this service is proposed to operate.

¹³³ *Voluntary Assisted Dying Final Report*, above n 4, p. 72

subject VAD case.¹³⁴ It was proposed in 2024 that in the NT, similar provisions for a contact person would be implemented.¹³⁵

Questions for consideration

- What eligibility requirements should there be for a person to be nominated as a Contact Person?
- What should the role and responsibilities of a Contact Person be?

Supply, storage and disposal of a VAD substance

2024 Expert Panel Recommendation 17

The VAD legislation should provide for safe supply, storage and disposal of the substance, including a contact person for VAD. The VAD legislation should provide for a contact person to be appointed by a person who elects self-administration for VAD.¹³⁶

It is necessary to analyse the relationship between legislative safeguards and equal access when considering how to safely supply, store, and dispose of a VAD substance.¹³⁷

Supply

In other States, the pharmacist is required to provide information that is similar to the information required to be provided by the coordinating practitioner before prescribing the substance.¹³⁸ Additionally, the pharmacist is required to verify all aspects of the prescription, including verifying the prescribing clinician's eligibility as a coordinating practitioner under VAD legislation.¹³⁹ For example, in WA, the authorised supplier must not supply the substance unless they have confirmed the authenticity of the prescription, the identity of the person who issued it and the identity of the person to whom the substance is to be supplied.¹⁴⁰

The 2024 Expert Panel Report proposed that, in the NT, the pharmacist would verify the validity of the supply request and be satisfied that all criteria have been met before providing information to the person and dispensing the substance. The proposed centralised model would reduce the prospect of delay due to the inability to locate a qualified and available pharmacist.¹⁴¹

¹³⁴ See for example, *Voluntary Assisted Dying Act 2017 (Vic)* s 39 and 40; *Voluntary Assisted Dying Act 2019 (WA)* Division 3.

¹³⁵ *Voluntary Assisted Dying Final Report*, above n 4, pp. 72-73

¹³⁶ *Voluntary Assisted Dying Final Report*, above n 4, Recommendation 17.

¹³⁷ McDougall, R and Pratt, b, 2020, Too much safety? Safeguards and equal access in the context of voluntary assisted dying legislation, *BMC Med Ethics*

¹³⁸ For example, *Voluntary Assisted Dying Act 2017 (Vic)*, s 58; *Voluntary Assisted Dying Act 2019 (WA)*, s 72.

¹³⁹ *Voluntary Assisted Dying Final Report*, above n 4, p. 74

¹⁴⁰ *Voluntary Assisted Dying Act 2019 (WA)*, s 71.

¹⁴¹ *Voluntary Assisted Dying Final Report*, above n 4, p. 73.

Storage and disposal – self-administration

All jurisdictions except WA and the ACT legislated that the VAD substance must be stored in a locked box.¹⁴² For example, in Victoria, the substance must be stored by the person in a locked box constructed of steel, that is ‘not easily penetrable’ and ‘lockable with a lock of sturdy construction’.¹⁴³ In the WA legislation there is simply a requirement to inform the recipient how to store the substance safely and securely.¹⁴⁴ It needs to be considered whether the decision to use safe boxes or similar is a policy decision or a decision that requires legislation.¹⁴⁵

In the NT, the proposed 2024 model the eligible person accessing VAD would be responsible for maintaining the supplied substance in a safe and secure way. The appointed contact person would be notified of the secure storage location of the supplied substance and entitled to possess any unused portion of the VAD substance and supply it to an authorised disposer.

There is a need to identify solutions that are appropriate for the NT in relation to the safe delivery, dispensation, storage and use of a VAD substance in the community, especially in remote communities. This may include having senior pharmacist involvement and storage of a substance in pharmacies to be obtained by the person at a time they choose rather than storage in a domestic environment.¹⁴⁶

Storage and disposal – practitioner administration

In other jurisdictions, if the substance is issued to an administering practitioner, they must:

- notify the Review Board that they have received the prescription;
- either safely dispose of, or return, the substance to the pharmacist; and
- notify the Review Board of the return and disposal of the substance.¹⁴⁷

It needs to be considered whether the NT follows a similar model.

¹⁴² *Voluntary Assisted Dying Act 2018* (Vic), s 57(c); *Voluntary Assisted Dying Act 2022* (NSW), s 79; *Voluntary Assisted Dying Regulation 2022* (Qld), reg 7; *Voluntary Assisted Dying Act 2021* (SA), s 78; *End-of-Life Choices (Voluntary Assisted Dying) Act 2021*, s 73(1). Note the ACT provides for the storage of the VAD substance to be prescribed by regulation. At time of publication not storage requirements have been prescribed. See *Voluntary Assisted Dying Act 2024* (ACT), s 74.

¹⁴³ *Voluntary Assisted Dying Act 2017* (Vic), s 61; *Voluntary Assisted Dying Regulations 2018* (Vic), reg 10.

¹⁴⁴ *Voluntary Assisted Dying Act 2019* (WA), s 72(2)(b).

¹⁴⁵ *Voluntary Assisted Dying Final Report*, above n 4, p. 73

¹⁴⁶ *Ibid.*, pp. 73-74.

¹⁴⁷ See, for example, *Voluntary Assisted Dying Act 2019* (WA), ss 60, 77 and 78.

Questions for consideration

- What safeguards should be put in place to ensure the supply of a VAD substance by a pharmacist is safe and accessible?
- What safeguards should be put in place to ensure the safe storage of a VAD substance? Should the decision to use safe boxes or something similar be a policy decision or a decision that requires legislation?
- Should storage requirements be different in remote communities, regional centres and/or urban communities?
- What safeguards are necessary to determine whether or not a person has taken the VAD substance, and to ensure return of any VAD substance that has not been taken?

Palliative care services

2024 Expert Panel Recommendation 17

Recognising the importance of palliative care services in the NT:

- A person who requests VAD must be informed of all treatment options including the nature, scope and availability of palliative care services.
- Further resources should be provided to educate the community about the nature and scope of palliative care options, particularly for people who wish to remain at home.
- Palliative care services must be consistently and adequately resourced to provide specialised and holistic palliative care to patients, wherever they live in the NT and to address the gaps in those services that result in inequities in people's end-of-life options. Implementation of VAD services in the NT must be complementary to, not at the expense of, expanded palliative care resources.¹⁴⁸

Interface of palliative care and VAD

The interface between VAD and palliative care has attracted substantial debate. Whilst some support VAD as an integral element of the palliative care system, others see VAD as contradictory to palliative care goals, arguing that it would 'compromise the ethos of palliative care, and thus must be kept distinct'.¹⁴⁹ For example, the views of palliative care physicians in the lead up to the introduction of VAD legislation in Victoria found a wide spectrum of opinions regarding VAD, however the majority were firmly against the

¹⁴⁸ *Voluntary Assisted Dying Final Report*, above n 4, Recommendation 7.

¹⁴⁹ S Javanparast, C Phelan and P Allcroft, 'Interface between voluntary assisted dying and palliative care in Australia: what evidence do we need to inform policy and practice?', *Internal Medicine Journal* 54 (2024) pp. 192-193.

legislation. It was concluded that the implementation of VAD legislation requires an active process to address the challenges it represents for palliative care physicians.¹⁵⁰

It is proposed that in the NT, legislation should ensure that people seeking VAD are advised about, and have access to, palliative care services when discussing the range of treatment options available to a person with a life-limiting illness.¹⁵¹

For many Aboriginal and Torres Strait Islander Peoples talking about 'death or dying' can be an uncomfortable and highly culturally sensitive conversation. Further, the term 'palliative care' is not easily translated into Aboriginal and Torres Strait Islander languages. These factors and how they interface with both palliative care and VAD need to be taken into consideration when holding discussions on these topics with Aboriginal and Torres Strait Islander people.¹⁵² In the ROTI Act, where a patient's medical practitioner had no special qualifications in the field of palliative care, the information to be provided to the patient on the availability of palliative care was to be given by a medical practitioner who had such special qualifications.¹⁵³ It needs to be considered whether the NT adopts this same requirement again.

Resourcing

Each jurisdiction where VAD legislation has been introduced has also focused on the future planning and investment in their palliative care services.

In the NT, adequate resourcing needs to be provided to palliative care services, particularly to allow outreach to rural and remote communities. Resourcing of VAD services in the NT should not be at the expense of palliative care services.¹⁵⁴

Questions for consideration

- Should health professionals be required to provide information on palliative care options if a person requests VAD?
- Should more resources be provided for community education on palliative care?
- How can it be ensured that VAD services are complementary to, and not at the expense of, palliative care services?
- Must information on palliative care be delivered by a practitioner with specialised qualifications in the field?

¹⁵⁰ A Holmes et al, 'Working with Palliative Care Physicians to Prepare for Voluntary Assisted Dying Legislation' (2022) *Australasian Psychiatry* 30(6), pp. 714–717.

¹⁵¹ *Voluntary Assisted Dying Final Report*, above n 4, pp. 52-54.

¹⁵² Palliative Care Australia, *Aboriginal and Torres Strait Islander Peoples Palliative Care Resources* (2025), <https://palliativecare.org.au/resource/aboriginal-and-torres-strait-islander-peoples-palliative-care-resources/>.

¹⁵³ *Rights of the Terminally Ill Act 1995* (NT), s 7(3)

¹⁵⁴ *Voluntary Assisted Dying Final Report*, above n 4, pp. 53-54.

Notifying and registering a person's death

2024 Expert Panel Recommendation 18

The Contact Person and Coordinating Practitioner must notify the Review Board of all deaths of persons who have made a formal request for VAD. Notification to the Coroner should not be specifically required. The cause of death of a person who has died by VAD should be the underlying disease or illness that would have led to the person's death without VAD.¹⁵⁵

Notification of death

In other States, notification to the Review Board of a death due to use of a VAD substance, or due to another cause if that person has requested VAD, is the responsibility of a medical practitioner.¹⁵⁶

Complete visibility by the Review Board of the process ensures there is appropriate supervision and scrutiny of all aspects of a person's access to VAD services and that standards are maintained.

In the NT, in 2024 it is proposed that notification of the death of any person who has requested VAD be made to the Review Board by the contact person and coordinating practitioner, and otherwise normal reporting obligations in respect of a death of a person should apply to cases involving VAD.¹⁵⁷

In the ROTI Act, a death due to administration of a VAD substance required reporting to the Coroner by sending them a copy of the death certificate as well as all relevant medical records relating to the terminal illness and death of the patient.¹⁵⁸

The 2024 Expert Panel Report proposed that the NT Coroner does not require individual notifications, as the Review Board receive these instead, unless:

- the certification and notification requirements were not adhered to;
- it is suspected that the person did not meet all eligibility requirements; or
- a person has died following complications arising from administration of a substance.

Annual or periodic reporting would be provided by the Review Board to the Coroner on the total number of VAD requests initiated, the proportion of those cases in which death occurred, and the proportion of those cases in which death occurred as a result of administration of a substance.¹⁵⁹

¹⁵⁵ *Voluntary Assisted Dying Final Report*, above n 4, Recommendation 18.

¹⁵⁶ See for example *Voluntary Assisted Dying Act 2017* (Vic), s 67; *Voluntary Assisted Dying Act 2019* (WA), s 82; *Voluntary Assisted Dying Act 2021* (SA), s 84; *Voluntary Assisted Dying Act 2024* (ACT), s 79.

¹⁵⁷ NT Government, *Voluntary Assisted Dying Independent Expert Panel, Report into Voluntary Assisted Dying in the Northern Territory - Final Report 2024*, p. 75.

¹⁵⁸ *Rights of the Terminally Ill Act 1995* (NT), s 14.

¹⁵⁹ *Voluntary Assisted Dying Final Report*, above n 4, p. 76.

In the NT the notification and registration of deaths must comply with the requirements of the *Births, Deaths and Marriages Registration Act 1996* (NT).¹⁶⁰ Therefore, additional consideration may need to be given to whether there is any significant interaction of the proposed VAD legislation with this Act.

Death certificate

In most other jurisdictions, for the purposes of a death certificate, the cause of death must not state that the person's death was a result of VAD.¹⁶¹ NSW requires cause of death as a result of VAD to be specified.¹⁶²

In 2024, it was proposed that in the NT, a death certificate must not state that a person has died as a result of VAD and instead, the cause of death must be the underlying eligible terminal illness disease or medical condition.¹⁶³

Questions for consideration

- Is notification to the Review Board of all deaths due to use of the VAD substance or due to another cause if that person has requested VAD appropriate and useful? Should the Coroner only be notified in particular circumstances? If so, which circumstances?
- What should be recorded as the cause and manner of death for a person who has died by accessing VAD?

Interpreters

2024 Expert Panel Recommendation 5

Interpreters must be accredited in order to provide interpreter services in VAD. At every stage of the VAD process, where an interpreter is used, their involvement should be documented, and the interpreter should certify their participation accordingly.¹⁶⁴

In Australia there are significant challenges to VAD access complicated by low health and legal literacy. These challenges are compounded by a lack of English language literacy.¹⁶⁵ In this regard, the availability of suitable interpreters is critical to enabling people to access VAD.

There is significant language diversity in the NT, with over 200 languages spoken.¹⁶⁶ In this context, the ROTI Act required the use of interpreters for signing request

¹⁶⁰ *Births Deaths and Marriages Registration Act 1996* (NT), Part 6.

¹⁶¹ See for example *Voluntary Assisted Dying Act 2019* (WA), s 82(6); *Voluntary Assisted Dying Act 2021* (QLD), s 81.

¹⁶² *Voluntary Assisted Dying Act 2022* (NSW), s 87(6).

¹⁶³ *Voluntary Assisted Dying Final Report*, above n 4, p. 75-76.

¹⁶⁴ *Ibid.*, Recommendation 5.

¹⁶⁵ B P White, R Jeanneret and L Willmott, 'Barriers to Connecting with the Voluntary Assisted Dying System in Victoria, Australia: A Qualitative Mixed Method Study'. *Health Expectations* 1(14) (2023), p. 2700.

¹⁶⁶ NT Health, *Strategic Plan 2023-2028* (2023), p. 6.

certificates to certify that the person requesting VAD fully understood their decision.¹⁶⁷ The ROTI Regulations set out the specific professional qualifications the interpreter was required to hold.¹⁶⁸

Presently, all Australian jurisdictions have requirements for when an interpreter is required and how this is recorded.¹⁶⁹ In summary, the medical practitioner conducting the initial VAD assessment must determine whether an interpreter is required and record this information on the assessment form they submit to the Review Board. The interpreter must certify that the VAD request was made by a person who has the capacity to understand their decision. The NT could also follow this model.

Qualification requirements for interpreters

In other Australian jurisdictions, interpreters must be accredited by the National Accreditation Authority for Translators and Interpreters (NAATI). The Review Boards may also specify other training and accreditations that must be undertaken. Some jurisdictions provide specific guidance to interpreters working in VAD.¹⁷⁰ Some of these requirements are specified in their respective VAD Regulations.¹⁷¹ Consideration may need to be given to qualification requirements and guidance for interpreters in the NT.

Aboriginal languages interpreters

There may be some specific challenges associated with interpreters for Aboriginal Territorians, including:

- the cultural sensitivity associated with the subject matter of death and dying; and
- kinship ties that may exist between an interpreter and a person seeking VAD, which may involve cultural obligations.¹⁷²

The Aboriginal Interpreter Service (AIS) is an important stakeholder in ensuring communication throughout the NT. In conjunction with the AIS, consideration will need to be given to the appropriate safeguards that will be required for interpreters of Aboriginal languages working in the VAD process.

Questions for consideration

- What qualifications, including cultural and language-specific training, should be required for interpreters involved in the VAD process in the NT?
- What safeguards are needed to ensure interpreters can participate in VAD in a culturally safe way?

¹⁶⁷ *Rights of the Terminally Ill Act 1995* (NT), s 7(1)(l).

¹⁶⁸ *Rights of the Terminally Ill Regulations 1997* (NT), reg 6.

¹⁶⁹ See, for example, *End-of-Life Choices (Voluntary Assisted Dying) Act 2021* (Tas), s 15(2)–(4).

¹⁷⁰ For example, NSW Government, NSW Health, *Voluntary assisted dying in NSW – Information for interpreters* (2023), <https://www.health.nsw.gov.au/voluntary-assisted-dying/Factsheets/information-for-interpreters.pdf>.

¹⁷¹ See, for example, *Voluntary Assisted Dying Act 2017* (Vic) s 115; *Voluntary Assisted Dying Regulations 2018* (Vic), reg 11.

¹⁷² *Voluntary Assisted Dying Final Report*, above n 4, p. 42.

6 Consultation Topic 5: Oversight and Review

Review Board

2024 Expert Panel Recommendation 19

An independent statutory body (Review Board) should be established to monitor compliance in every case and to review the operation of the Act. The functions, membership and responsibilities of the Review Board should be as outlined in Chapter 6 of the 2024 Expert Panel Report.¹⁷³

Membership

Consideration must be given to whether to require specific membership to reflect particular expertise or knowledge on the Review Board. Membership requirements differ across other jurisdictions.

In the NT it was proposed in 2024 that membership of the Review Board should reflect the geographic and cultural diversity of the Territory. This includes, at least one Aboriginal person, and one health practitioner member practicing in Central Australia. Consideration may need to be given to other specific membership requirements.

Function

Most Australian jurisdictions have a statutory review mechanism with the function of investigating compliance and operation of their VAD scheme and legislation.¹⁷⁴ In some States, such as Victoria and SA, oversight is prospective. This may include reviewing and approving applications for VAD in every case (i.e., before a person can proceed to the next stage of the VAD process). In contrast, Review Boards in other States, such as Queensland, also exercise retrospective oversight by reviewing actors' compliance at the end of the process. The 2024 Expert Panel Report proposed that the Review Board would perform both prospective and retrospective oversight

Oversight bodies in other jurisdictions have enforcement powers and the ability to refer suspected breaches to external authorities, including the police, coroner or the Australian Health Practitioner Regulation Agency. Some States, such as Tasmania, grant their oversight body an investigate function, allowing them to directly investigate suspected breaches or refer them. Consideration should be given to the specific role and functions of a Review Board in the NT.

The 2024 Expert Panel Report proposed that the Review Board should have the power to request information from the CEO of NT Health, any accredited person in the VAD

¹⁷³ *Voluntary Assisted Dying Final Report*, above n 4, Recommendation 19.

¹⁷⁴ *Voluntary Assisted Dying Act 2017* (Vic), s 92; *Voluntary Assisted Dying Act 2019* (WA), s 164; *End-of-Life Choices (Voluntary Assisted Dying) Act 2021* (Tas), ss 110, 114-121; *Voluntary Assisted Dying Act 2021* (SA), s 113; *Voluntary Assisted Dying Act 2021* (Qld), Part 8; *Voluntary Assisted Dying Act 2022* (NSW), Parts 7 and 8; *Voluntary Assisted Dying Act 2024* (ACT), Part 8.

process, a contact person or a treating medical practitioner.¹⁷⁵ In other jurisdictions, the Review Boards are required to report annually.¹⁷⁶

Questions for consideration

- What requirements should be set for membership of a VAD Review Board in the NT?
- What functions should the NT VAD Review Board fulfill?

Reviewing eligibility decisions

2024 Expert Panel Recommendation 20

There should be a right of review to the Northern Territory Civil and Administrative Tribunal for some VAD decisions on eligibility, limited to only the person seeking access to VAD.¹⁷⁷

In every Australian jurisdiction, there is right to challenge certain decisions made regarding a person's eligibility to access VAD.¹⁷⁸ This gives a person the legal right to request that another person (other than the original decision-maker) review the decision, reconsider the facts and laws, and determine whether the original decision was correct.¹⁷⁹ To align with other Australian jurisdictions, the NT could also have the following reviewable decisions:

- whether the person meets the residency requirements (including eligibility for exemption);
- whether the person does, or does not, have decision making capacity; and
- whether the person is, or is not, acting voluntarily and without coercion.¹⁸⁰

Administrative tribunal

In most jurisdictions, this type of review is handled by the State's administrative tribunal, allowing for an independent reconsideration of the eligibility decision. Alternative models could include judicial review (NSW) or internal review (Tasmania). The NT's administrative tribunal is the Northern Territory Civil and Administrative Tribunal

¹⁷⁵ *Voluntary Assisted Dying Final Report*, above n 4, p. 79.

¹⁷⁶ See, for example, *Voluntary Assisted Dying Act 2018* (Vic), s 93(1)(c); *Voluntary Assisted Dying Act 2024* (ACT), s 127.

¹⁷⁷ *Voluntary Assisted Dying Final Report*, above n 4, Recommendation 20.

¹⁷⁸ *Voluntary Assisted Dying Act 2017* (Vic) ss 85–89; *Voluntary Assisted Dying Act 2021* (Qld) ss 99, 102; *Voluntary Assisted Dying Act 2022* (NSW) Parts 7 and 8; *End-of-Life Choices (Voluntary Assisted Dying) Act 2021* (Tas); *Voluntary Assisted Dying Act 2021* (SA) ss 85–89; *Voluntary Assisted Dying Act 2024* (ACT) ss 134–137.

¹⁷⁹ Australian Government, Administrative Review Council, *What decisions should be subject to merit review? 1999* (1999), <https://www.ag.gov.au/legal-system/publications/arc-what-decisions-should-be-subject-merit-review-1999>.

¹⁸⁰ *Voluntary Assisted Dying Final Report*, above n 4, p. 81.

(NTCAT). The 2024 model proposed that NTCAT would review the eligibility decisions as outlined above.

Timeframes for review

Each jurisdiction specifies a period after a decision has been made within which a person may request review. In general, this is 5 (e.g., Queensland) or 28 (e.g., SA) business days for decisions about eligibility. A person must apply within this period to be eligible for review of the decision. Consideration may need to be given to the timeframe within which a person must apply for the review of decisions in the NT. It is noted that generally applications to NTCAT must be made within 28 days of the relevant decision.¹⁸¹ Consideration may need to be given to the interaction between VAD legislation and the *Northern Territory Civil and Administrative Tribunal Act 2014* (NT), including exemptions or modifications to its operation that may be required to enable different review periods.

Who can apply for review

It was proposed that applications for review by the NTCAT be limited to only the people seeking access to VAD. In all other jurisdictions, a person seeking VAD has the right to review of a decision. In some jurisdictions, applications for the review of an eligibility decision may extend to other persons. For example, in Queensland, the right may extend to any other person who has a sufficient and genuine interest in the rights and interests of a person seeking VAD.¹⁸²

Questions for consideration

- Which decisions relating to VAD should be able to be reviewed?
- What timeframe should be prescribed for a person to apply for a review of decisions?
- Who should be allowed to apply for the review of VAD decisions?
- What considerations should be given to the interaction of VAD legislation and the *Northern Territory Civil and Administrative Tribunal Act 2014* (NT)?

Reviewing the operation of legislation

2024 Expert Panel Recommendation 21

The first review of the operation of the NT VAD legislation should be delivered as soon as practicable after the third anniversary of its commencement. After that, reviews should be conducted at five-year intervals.¹⁸³

Review provisions are a mechanism for ensuring legislation is properly evaluated after it has been in operation for several years. In other jurisdictions, the VAD Acts required the

¹⁸¹ *Northern Territory Civil and Administrative Tribunal Act 2014* (NT), s 35(3).

¹⁸² *Voluntary Assisted Dying Act 2021* (QLD), s 100(c).

¹⁸³ *Voluntary Assisted Dying Final Report*, above n 4, Recommendation 21.

responsible Minister to review the operation of the VAD Act and table a report in the Parliament.¹⁸⁴ Reviews may look at the operation, scope or effectiveness of the Act. The timeline for the review of VAD Acts varies across jurisdictions, with some jurisdictions conducting reviews:

- every 3 years (Queensland, the ACT);¹⁸⁵
- every 5 years (Victoria, SA);¹⁸⁶
- on the second anniversary after the Act commenced and then every 5 years (WA, NSW);¹⁸⁷ or
- on the third anniversary after the Act commenced and then every 5 years (Tasmania).¹⁸⁸

In the 2024 Expert Panel Report, it was proposed that the NT would follow the Tasmanian model, completing a review on the third anniversary after the commencement of VAD legislation, and then every 5 years.

Some other jurisdictions specify specific matters that must be included in the first review of their VAD Act. For example, the ACT requires its first review in 2027 to consider whether residency requirements and decision-making criteria remain appropriate, and whether VAD may be accessed via advanced care planning.¹⁸⁹ Consideration may need to be given to what matters should be included in reviews of any potential NT VAD legislation.

Questions for consideration

- Will reviewing the VAD legislation on its third anniversary and then every 5 years provide sufficient oversight of the operation of the legislation?
- Should any particular matters be required to be considered in reviews of the VAD legislation?

Implementation timeframe

2024 Expert Panel Recommendation 22

VAD services should be ready for operational implementation within 18 months of the legislation being enacted.¹⁹⁰

After passing VAD Acts, each jurisdiction has required their VAD schemes to be operational within a certain period. The majority of jurisdictions have provided for an 18-month implementation timeline. This period is intended to enable sufficient time to

¹⁸⁴ For example, see *Voluntary Assisted Dying Act 2024* (ACT), s 162(1) and (3).

¹⁸⁵ *Voluntary Assisted Dying Act 2024* (ACT), ss 162(1) and (3).

¹⁸⁶ *Voluntary Assisted Dying Act 2017* (Vic), s 116; *Voluntary Assisted Dying Act 2021* (SA), s 129.

¹⁸⁷ *Voluntary Assisted Dying Act 2019* (WA), s 164; *Voluntary Assisted Dying Act 2022* (NSW), s 186(1).

¹⁸⁸ *End-of-Life Choices (Voluntary Assisted Dying) Act 2021* (Tas), s 145(1)-(4).

¹⁸⁹ *Voluntary Assisted Dying Act 2024* (ACT), s 162(2).

¹⁹⁰ *Voluntary Assisted Dying Final Report*, above n 4, Recommendation 22.

implement the requirements of the VAD Act. The 2024 model intended that the NT will also adopt an 18-month timeline for implementation.

Question for consideration

- Is 18 months an appropriate timeframe for the implementation of a VAD Act in the NT?

7 Consultation Topic 6: Other issues

We would like to hear any other issues that you think are relevant to the scope of the Committee's inquiry. This may include, but is not limited to:

- new offences to enforce compliance with VAD legislation
- interaction with other legislation
- education and guidelines to assist individuals and practitioners to understand their rights and obligations under the VAD legislation and how it operates in practice.

Question for consideration

- Are there any other issues that you think should be considered?

Appendix A – Terms of Reference



ATTORNEY-GENERAL

Parliament House
State Square
Darwin NT 0800
minister.boothby@nt.gov.au

GPO Box 3146
Darwin NT 0801
Telephone: 08 8999 8603

Dr Tanzil Rahman
Legal and Constitutional Affairs Committee
PO Box 41104
CASUARINA NT 0811

Via email: electorate.fonglim@nt.gov.au

Dear Dr Rahman

I am writing to you in your capacity as Chair of the Legal and Constitutional Affairs Committee (LCAC).

It is requested that the LCAC undertake an inquiry into the into *Voluntary Assisted Dying in the Northern Territory - final report 2024*.


The proposed terms of reference for the Committee are to:

- Prepare a consolidated consultation paper, drawing upon previous reports, inquiries, proposals, and the *Rights of the Terminally Ill Act 1995 (NT)*.
- Consult extensively with communities across the Northern Territory, particularly in remote areas, to gather views on the possible introduction of voluntary assisted dying in the NT.
- Evaluate different voluntary assisted dying models and safeguards, with a focus on those that would be appropriate for the Northern Territory context.
- Identify any specific challenges associated with delivering voluntary assisted dying in the Northern Territory.
- If the Committee recommends adoption, provide drafting instructions for model legislation to give effect to voluntary assisted dying in the NT.



I would appreciate if the Committee could respond back to me by the end of September 2025.

Yours sincerely



MARIE-CLARE BOOTHBY

Appendix B – Comparison of Australian Jurisdictions

Figure 6: Jurisdictions Comparator Table¹⁹¹

Jurisdiction's Comparator Table

	VIC	WA	TAS	SA	QLD	NSW	ACT
Start date	19 June 2019	1 July 2021	23 October 2022	31 January 2023	1 January 2023	28 November 2023	3 November 2025
Disease, illness or medical condition is expected to cause death within a specified timeframe (six months, 12 months for neuro-degenerative disease)	✓	✓	(Ability to apply for an exemption to the commission)	✓	(Will "most likely" cause death within timeframe)	(Will "on the balance of probabilities" cause death within timeframe)	✓
Disease, illness or medical condition is expected to cause death within a specified timeframe (six months, 12 months for neuro-degenerative disease)	✓	✓	✓	✓	✓	✓	X
Voluntary assisted dying not suicide	X	✓	✓	✓	✓	✓	✓
Person has decision-making capacity in relation to assisted dying	✓	✓	✓	✓	✓	✓	✓
Mental health as sole diagnosis allowable	X	X	X	X	X	X	X
18 years or older	✓	✓	✓	✓	✓	✓	✓
All criteria must be met	✓	✓	✓	✓	✓	✓	✓
Patient or practitioner can administer the VAD substance	X (Self-administration is the default)		X (Self-administration certificate required)	(Application may be made for a practitioner administration permit)	(Can only choose practitioner administration if self-administration is inappropriate)	✓	✓
Nurse practitioner allowed to administer the voluntary assisted dying substance	X	✓	✓	✓	✓	✓	✓
Telehealth allowed	X (Not specifically allowed)	✓	X (Not specifically allowed)	X (Not specifically allowed)	X	✓	X (Not specifically allowed)
Medical practitioner allowed to initiate discussion about assisted dying	X (Must respond to request in 7 days, do not need to provide information)	✓	X (Must respond to request in 7 days, do not need to provide information)	X (Do not need to provide information)	X (Required to provide details of navigator service)	X (Must respond to request in 7 days, do not need to provide information)	X (Must provide the contact details for the care navigator service within 2 business days)

¹⁹¹ NT Government, Voluntary Assisted Dying Independent Expert Panel, *Report into Voluntary Assisted Dying in the Northern Territory – Final Report 2024*, pp. 97-98.

	VIC	WA	TAS	SA	QLD	NSW	ACT
Medical assessment needed	✓	✓	✓	✓	✓	✓	✓
Entity may refuse voluntary assisted dying service delivery	✓	✓	✓	X	✓	X	X
Must be a resident in the jurisdiction	✓	✓	✓	✓	✓	✓	✓
Suffering cannot be relieved in a manner the person considers tolerable	✓	✓	✓	✓	✓	✓	✓
Medical practitioners must notify the patient of conscientious objection immediately	X (Must respond to request in 7 days, do not need to provide information)	✓	X (Must respond to request in 7 days, do not need to provide information)	X (Do not need to provide information)	X (Required to provide details of navigator service)	✓	X (Must provide the contact details for the care navigator service within 2 business days)
Coercion prevention Person must make three requests. One request must be in writing. There must be two witnesses to the written request.	✓	✓	✓	✓	✓	✓	✓
Review by tribunal of some criteria (e.g. reviews of residency, decision making capacity, or voluntariness)	✓	✓	✓	✓	✓	✓	✓
Waiting period between first and final requests	✓	✓	✓	✓	✓	✓	X
Person may withdraw request at any time	✓	✓	✓	✓	✓	✓	✓
Referral to another medical practitioner if eligibility cannot be determined (e.g. uncertainty about a person's diagnosis or decision making capacity)	✓	✓	✓	✓	✓	✓	✓
Medical practitioners must complete training before assessing person	✓	✓	✓	✓	✓	✓	✓
Medical professionals must report at points throughout the assisted dying process	✓	✓	✓	✓	✓	✓	✓