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30 January, 2012

Dear Sir or Madam

Submission of the Presbyterian Church of Australia in New South Wales concerning the
Consolidation of Commonwealth Anti-Discrimination Laws Enquiry

This submission is made by the Church and Nation Planning Group of the Presbyterian Church of Australia in New South Wales. Our sister church in Victoria has made a substantial submission (*Submission of the Presbyterian Church of Victoria Church and Nation Committee to the Consolidation of Commonwealth Anti-Discrimination Laws Discussion Paper January 2012*). This submission notes some of the key arguments in that paper and expresses the agreement of our Planning Group with the concerns raised in that paper.

The Presbyterian Church of Australia in New South Wales consists of over two hundred congregations in metropolitan Sydney, regional centres and rural areas. As well as our congregations, PCNSW is responsible for a large number of schools, pre-schools and aged care facilities and a theological education institution. Through Presbyterian Social Services it also provides welfare and relief activities, chaplaincy work in hospitals and jails, a counselling service, a hospital for several disabled children and a student residence.

Christians are committed to acting with both justice and compassion. We hold that God calls us to treat people fairly and also to care of the needs of those who have few resources or protections and who are most vulnerable. Because of these commitments we endorse the role of anti-discrimination legislation. In a pluralistic society it is important that the rights of minority groups and others prone to suffer unfair discrimination should be protected. Race, ethnicity, religion, gender and sexual identity should not exclude people from access to education, medical care, financial services, employment, welfare benefits, political participation

and media representation. Current anti-discrimination legislation seems to consistently achieve this important goal.

We draw attention to the need to ensure that anti-discrimination legislation not be allowed to develop in such a way that it begins to be a source of unnecessary discrimination. Australia has traditionally protected the religious freedom of its citizens and has entered into international commitments which guarantee such protections (e.g. the International Covenant of Civil and Political Rights). There is a real danger that extended anti-discrimination legislation may have unexpected implications for religious freedom. That is, it is possible for legislation enacted with the goal of removing unjust discrimination may have the added effect of curtailing the free exercise of religious beliefs. For example, a church school which desires teachers to teach from a particular point of view and to model to students a lifestyle which is consistent with that point of view may be stopped from requiring applicants for teaching positions to demonstrate their religious convictions and consistent lifestyle. While from one point of view this may simply appear to be a limitation of unjust discrimination, the situation is more complex than that. In Australia it is never the case that a religious body is the only provider of a service or a sole employer in a field. There are always a range of providers and a variety of parallel institutions. Religious bodies are involved in education, medical care, aged care, welfare or other activities as an expression of their beliefs. It is important that religious believers should be allowed to exercise their beliefs as they participate in wider society, including retaining the right to determine membership of their organizations and to employ in their organizations individuals who agree with or are willing to support the beliefs and values of the particular religion.

We believe that the presence of a wide variety of religious groups in our society holding a range of views and adopting a range of lifestyles strengthens our national life. Australia is far better served by allowing a variety of forms of belief and non-belief to flourish and have full expression, rather than enforcing a generalized uniformity in the beliefs and practices of our society. In order for such groups to continue to flourish they should be guaranteed freedom to continue to run institutions which advocate their views and demonstrate their ways of living. Therefore, we are not advocating special protections for Christians, but rather that all religious groups should be given sufficient protection in these areas. It should not be necessary for religious bodies to have to establish their right to exercise their beliefs in each case but a general freedom should be recognized.

Anti-discrimination legislation should be framed in such a way that all Australians have access to secular institutions and community services. At the same time, when religious believers seek to provide services and establish institutions which reflect their distinctive beliefs they should be free to do so, and the very distinctives which are so significant in forming religious identity should be protected. Anti-discrimination legislation should not intrude on these freedoms.

We thank the enquiry for the opportunity to make a submission on this important matter.

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Presbyterian Church of Australia in New South Wales

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