Your Submission

Submission on the Exposure Draft of the Religious Discrimination Bill
By the Baptist Association of NSW & ACT

The Baptist Association of NSW & ACT is a trading name of the Baptist Union of NSW, which is incorporated under an act of the NSW State Parliament. We comprise around 340 churches across NSW & ACT who voluntarily associate together and are also networked with 1000 Baptist churches across the country through our affiliation with the Baptist Union of Australia. We are a network which is diverse across cultures and ages, embedded within and serving local communities across our state and territory. We also work closely with key affiliated groups such as BaptistCare NSW & ACT, one of the largest faith-based care agencies in the state, and Baptist World Aid Australia, one of the largest faith-based aid agencies in the country.

The Baptist Association of NSW & ACT (“the Association”) appreciates the opportunity to make a submission on the draft Bill.

We recognise that the Bill is not intended to address all of the recommendations of the Ruddock Review. We look forward to those other recommendations being addressed by the Government and would request this be done in as timely a manner as possible, certainly during the current parliamentary term.

In this context, we commend the Federal Government for including general provisions for the protection of people of faith from discrimination in Commonwealth law in the proposed Bill. However, we also have several significant concerns about the draft legislation in its current form. A comprehensive explanation of these concerns, and suggested solutions, is contained in the submission on this proposed Bill from the organisation Freedom for Faith. We wish to refer the Government to this submission which we strongly endorse and support. The Association, through our national body Australian Baptist Ministries, is a member of Freedom for Faith.

We would, however, like to briefly highlight some matters of particular concern as they relate to the churches and groups within our movement.

1. The ‘commercial activities’ disqualification in S10 would have major negative impacts on the capacity of many of our churches and groups to operate in alignment with their values and mission.

There is no definition of ‘commercial activities’ in the Bill. The Explanatory Memorandum (para 170-175) suggests that it will cover religious bodies “operating in the secular marketplace” and “selling goods and services to the general public”. Many of our churches engage in providing services to the general community as an outworking of their ministry for which some fees are received, either through their church entity itself or through a not-for-profit entity related to the church. Examples of
these across our Association include (but are not limited to) counselling services, childcare services, recreational and sporting services, health services, camping sites and other activities. Such services are undertaken as an outworking of the beliefs and values of our churches yet are in danger of being excluded from the definition of a religious body.

Further, the explanatory notes (para 174) specifically state that hospitals and aged care providers are not religious bodies for the purposes of S10. One of the key affiliated groups of our Association is our care arm, BaptistCare NSW & ACT. The single largest component of its ministry relates to its retirement and aged care services, thus it would not qualify as a religious body under S10. Yet central to its mission is its Christian ethos and its belief that each person is unique, loved by God, and worthy of respect, dignity and inclusion. This includes a commitment to welcome all people into its facilities and to offer hope, care and compassion to all those accessing its services. It also includes a commitment to operate in alignment with its Christian ethos and to express its Christian identity. It is appropriate for organisations such as BaptistCare to be included as religious bodies in this Bill.

2. Merely preferring (instead of requiring) staff to hold to the beliefs or teachings of the organisation will leave them open to being excluded from the definition of a religious body.

The examples given in the explanatory notes (para 180-181) only specify situations where faith-based organisations require all staff and volunteers to be adherents to the faith. Some of our organisations need the flexibility to maintain a critical mass of staff and volunteers who are adherents to the faith, but also the capacity to employ more broadly for certain roles. For example, BaptistCare’s policies require Senior Leaders demonstrate an understanding and appreciation of BaptistCare’s Christian identity and promote the organisation’s values at work. It also includes an expectation that certain senior leaders, including the Executive, are able to demonstrate an authentic Christian commitment. This necessarily means preferring people of Christian commitment as desired in its recruitment and employment practices. It is important that BaptistCare continues to have the ability to make these choices while also having the flexibility to employ more broadly to ensure the ongoing delivery of high quality services to the community.

3. It needs to be made clear that the definition of “Person” in S5 includes Unincorporated Associations.

Most of the local Baptist churches and other related entities in our movement are Unincorporated Associations, yet it is not clear that this definition includes these entities. Other definitions (for example that in the commonwealth Work Health and Safety Act 2011) specifically refer to unincorporated associations and the definition could be drawn from these.

4. The meaning of the term ‘vilify’ in the act is unclear.

While we agree that people should not be vilified, it is imperative to avoid sections of the Bill such as 8(4) and 41(2)(a) being construed in ways that render statements of belief vulnerable. This could be done by either removing the word altogether, or clearly and narrowly defining it.

We again refer the government to the submission provided by Freedom for Faith as a more expansive expression of our concerns.

Thank you for the opportunity to present our feedback on the proposed Bill.

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Baptist Association of NSW & ACT

2 October 2019