SUBMISSION CONCERNING
RELIGIOUS FREEDOMS REFORMS BILL 2019

I write this submission due to my concern that the proposed bill will have a negative impact on the lives of gender and sexually diverse members of religious organisations, specifically that it:

1. may encourage religious organisations to adopt discriminatory policies concerning the treatment of gender and sexually diverse people; and
2. lacks clarity concerning the protection for gender and sexually diverse people members of religious organisations from suffering harm as a result of discriminatory policies.

The proposed bill makes three assumptions. First, that religious organisations are homogenous in their beliefs and practices. Second, that religious discrimination arises from externally to religious organisations. Third, it assumes that religious members can leave a religious organisation when disputes arise.

A cursory knowledge of religious life shows that these assumptions are false. Religious organisations are places where values and beliefs are contested, no more so than gender and sexual diversity. Furthermore, members who are gender and sexual diverse often experience discriminatory behaviour, often by leaders whose decisions affect their access to work, housing and other benefits received by church workers. Finally, existing leaders are unwilling to leave because it is just as much their church and are often unable to do so on account of how their salary, housing and car and other benefits are packaged. Gender and sexuality diverse members of religious organisations and their allies are therefore vulnerable to discrimination from within their own organisation.

My concerns about the potential impact of the proposed bill came to light during a policy debate within the Anglican Diocese of Canberra and Goulburn concerning access to a camping program by transgender children and adults. In June 2019, a meeting of Bishop-in-Council was asked and agreed to authorise on an interim basis a policy that read in part:

The preliminary policy for engaging with transgender campers is:

- That the overall principle is for Synergy to do its utmost to find a way for each person to attend and to accommodate each camper’s preferences within the following requirements.
- The first step is a conversation with the parents about proposed arrangements to accommodate and care for their child. This conversation may include a discussion about whether it is appropriate to then have a conversation with the child.
about their preferences.

Follow up may include a conversation with older campers.

- It is explained giving reasons that they should sleep in rooms and use bathrooms of their biological sex.
- If this is a problem for the camper, they may be offered individual accommodation if it is available.
- If neither of these options is acceptable, regrettably they cannot attend.

The preliminary policy regarding transgender leaders, is that they, like all leaders, must be able to model Christian values and standards, and if they are undergoing transition, it is considered unlikely that they are emotionally ready to do this and so should not be leaders.

- It may be appropriate in individual cases for such people to take an assistant or resource leader role which does not involve spiritual authority, but only on the basis that is clearly explained that this does not entail ongoing leadership.

This policy is highly problematic and poorly informed in several respects:

- the expectation that all leaders should model Christian values and standards seems uncontroversial. However, Christians vary sharply in their understanding of how gender and sexuality relate to Christian beliefs and how religious values should be modelled. While the Anglican Diocese of Sydney has determined that gender diversity is fundamentally incompatible with such values and standards, many other dioceses have not determined view and would appear reluctant to do so. Advocates for a restrictive policy hold a conservative understanding of gender that fails to recognize how gender diverse people are of equal value to God and are fully capable of modeling Christian values and standards;
- it appears to limit participation by transgender children by making biological sex the determining factor for bedroom and bathroom use while being silent about managing discrimination experienced by gender diverse people;
- it provides no guidance as to what, how or when transition is completed, which impacts a transgender person’s eligibility for leadership roles;
- it predetermines that people undergoing transition are emotional unstable and offers no consultation with the person about their capacity, suitability or readiness for leadership. No one else’s emotional readiness for leadership is subjected to the same kind of scrutiny. Furthermore, it fails to acknowledge that transition is undertaken with the assistance of a treatment team that includes psychologists and other support staff to ensure emotional wellbeing; and
- it risks perpetuating and institutionalising harmful stereotypes by failing to acknowledge the positive benefits that come from having gender diverse leaders.

When asked to review the policy, Synergy agreed to consult with children directly but refused to make the policy more inclusive of gender diverse people. Consequently, The policy gives the appearance of being a welcoming community while in practice deterring involvement by transgender children and denying transgender adults the opportunity to exercise leadership to the same degree as cisgender adults.

As a member of Bishop-in-Council, I was alarmed and concerned by how this proposed policy could be adopted, even on an interim basis. While consideration was given to its compliance with anti-discrimination law, the conversation focused on uncertainty around religious exemptions rather than the effect of exclusion on transgender people. This suggests that the proposed bill may encourage other religious organisations to adopt similar policies that will harm gender and sexually diverse members and deny them opportunities from equal participation and leadership in their church.

The proposed bill is also unclear concerning the degree of protection afforded to gender and sexually diverse people when subjected to discriminatory policies adopted by their own religious organisations. Gender and sexually diverse people are a much-misunderstood minority within religious organisations. Harmful stereotypes are widespread within many religious communities. The capacity of gender and sexually diverse people to openly express their identity and to pursue life-giving relationships, including marriage, is widely discouraged. Those in leadership often have to choose between being who they are and retaining their accreditation for ministry. Furthermore, those who encourage and affirm gender and sexually diverse people by opening up leadership roles risk being subject to internal disciplinary procedures and are often shunned and excluded from exercising leadership beyond their existing roles.

Anti-discrimination law should provide recourse to those who experience discrimination on account of factors that they cannot change such as their ethnicity, disability, gender or sexuality. It seems deeply perverse that this bill could further harm the wellbeing and health of gender and sexually diverse members of religious organisations by encouraging the adoption of discriminatory policies while providing ambiguous protection for their religious conscience.

The Venerable Dr Wayne Brighton
Archdeacon for Chaplaincy and Rector of Holy Covenant Anglican Church