

14 August 2025

The Hon Tom Bathurst AC KC  
Chair  
NSW Law Reform Commission  
GPO Box 31  
Sydney NSW 2001  
[ADAreview@dcj.nsw.gov.au](mailto:ADAreview@dcj.nsw.gov.au)

Dear Chair,

**RE: Review of the Anti-Discrimination Act 1977 (NSW) – Consultation Paper 24**

Mission Australia welcomes the opportunity to make a submission to the NSW Law Reform Commission's review of the *Anti-Discrimination Act 1977 (NSW) (Act)*.

By this submission, Mission Australia wishes to respond to certain proposed reforms to the Act arising from the Consultation Paper (CP) which could unintentionally restrict its charitable purpose and operations. In particular, this submission seeks to provide input in relation to Questions 5.1 and 7.1 of the CP.

**About Mission Australia**

Mission Australia is a national non-denominational Christian para-church charity with roots tracing back 165 years.

We deliver 477 programs and services across Australia, in many areas including homelessness, housing, strengthening communities, children and families, youth, employment and disability. Mission Australia Housing is a Registered Tier 1 Community Housing Provider and owns or manages more than 4,500 social and affordable homes. In NSW, Mission Australia has over 250 programs and services and almost 3,000 social and affordable homes in its portfolio.

Mission Australia's vision is: *together, building hope and possibility for all* - irrespective of a person's, sex, age or any other protected attribute specified in the Act.

Mission Australia's Founding Purpose, as set out in its Board Charter is:

*Inspired by Jesus Christ, Mission Australia exists to meet human need and to spread the knowledge of the love of God without reference to denomination or any other distinction.*

Mission Australia's Founding Purpose is also enshrined in its Constitution.

The Founding Purpose informs and shapes Mission Australia's values and culture, and on that basis, is of paramount importance. To the extent further detail relating to the Founding Purpose is helpful in contextualising this submission, we enclose a copy of our [Unpacking our Founding Purpose](#) Christian charter. Mission Australia's [values](#) of Compassion, Respect, Integrity, Perseverance and Celebration are also drawn from and reflect its Christian identity.

## Maintaining a Christian identity and diverse workforce

Mission Australia’s ability to deliver services of public benefit is grounded in maintaining an authentically Christian identity while supporting a diverse and inclusive workforce and service delivery. To achieve this balance, Mission Australia needs to be able to actively require or preference the employment of Christians in certain role categories. These categories, together with the rationale, are set out in the table below:

Category	Christian faith	Typical positions	Rationale
<b>Governance, Executive and Senior Leadership Roles</b>	Requires	Board Director, Chief Executive Officer, Executive Chaplaincy	Responsibility for mission, strategic direction, culture-bearing and charitable purpose.
	Preferences	Executive, General Manager, State Director	
<b>Chaplains and Pastoral Carers</b>	Required	Senior Chaplain, Chaplain, Pastoral Carer	Ability to offer Christian spiritual support.
<b>Religion-informed specialists</b>	Preferences	Communications, philanthropy, content, and church-facing roles.	Articulate mission to Christian and other audiences in ways faithful to Christianity.

As its Founding Purpose document states:

*The workforce of Mission Australia includes Christians, people of other faiths, people on a faith journey, and people of no faith. Mission Australia values the dedication, giftedness and goodwill of all our staff from their diverse backgrounds. That said, there is an expectation that every Mission Australia staff member will know and acknowledge Mission Australia’s commitment to its explicitly Christian identity.*

Mission Australia complies with staff diversity requirements set out in government contracts relating to the funding of core programs and services. Mission Australia also ensures and values a diverse, highly skilled workforce who reflect the people and communities it serves.

### Relevant Issues Raised by the Consultation Paper

#### *Definition of a “religious body” or “body established to propagate religion”*

The Act does not currently define what a “body established to propagate religion” is. As stated in the CP, ‘body established to propagate religion’ has been found to include charitable institutions that are established by churches.

We note that Mission Australia’s origins are different, having been established by Christians from a range of denominations. Nonetheless, Mission Australia is undoubtedly a “body established to propagate religion”.

To the extent that any definition of a religious body is to be added to the Act, we ask the Commission to ensure that this definition include non-profit bodies and charities with a religious purpose (as evidenced by such a body’s governing documents, statement of beliefs, charter, or statement of values).

#### *Addition of “Religious Belief or Activity” as a Protected Attribute*

The CP suggests that recognising religion as a protected attribute would harmonise NSW law with other Australian jurisdictions. This proposal raises several practical and legal concerns for Christian charities like Mission Australia that require careful resolution before any legislative change is made. Without

clear, tailored exemptions, the new protected attribute could hinder the ability to preference Christians for governance, executive leadership, chaplaincy and other critical roles, thereby comprising the charity's Founding Purpose, organisational culture and identity.

We therefore urge the Commission to ensure that, should a new protected attribute be introduced, it is accompanied by explicit, workable exceptions that allow for religious-based preferencing in the above categories, including for para-church charitable organisations.

#### *Scope of the Section 56 Exception*

The CP observes that the current exception for appointing "any other person in any capacity by a body established to propagate religion" pursuant to s 56(c) of the ADA is wide and considers a range of ways it could be narrowed. These include via inherent requirements / genuine occupation requirement, reasonableness and proportionality tests.

Mission Australia is concerned that the introduction of any of the proposed tests may reduce or remove its ability to require or prefer Christian faith for the above-listed categories. For example, the inclusion of:

- an inherent requirement or genuine occupational requirement test may prevent preference for Christians in positions critical to Mission Australia's Founding Purpose. Under such a test, faith-based organisations with a large diverse workforce would therefore lose their ability to create a culture that genuinely reflects its Christian beliefs and ethos.
- a reasonable and proportionate test introduces a degree of ambiguity to employment processes, particularly in the absence of clearly legislated guidance. We do not support a generic provision that would require a faith-based charity like Mission Australia to justify on a case-by-case basis that the employment of any employee was a reasonable and proportionate measure.

#### *Exemptions and government funding*

The CP (at 7.48) contemplates whether special rules should be put in place for religious bodies providing public goods and services (e.g. health and aged care) and poses the question of whether a religious body should lose access to exemptions if it is providing public services or receiving public funding (at 7.49). We strongly disagree with this proposition.

As stated above, Mission Australia is a faith-based charity that provides care to all people, regardless of faith, race, sexuality or other protected attributes. We submit that the fact that Mission Australia provides public services or receives public funding does not diminish its underlying Christian Founding Purpose. If anything, the provision of public services is motivated primarily by Mission Australia's Founding Purpose rather than the receipt of public funding. Amending the Act to prohibit religious bodies providing public services or receiving public funding from accessing the exemption will only have the effect of discouraging organisations such as Mission Australia from providing these public services, including services that are wholly funded or subsidised by the charity.

#### **Conclusion**

We respectfully request that the Commission ensure the final legislation enables religious bodies, including religious para-church organisations such as Mission Australia, to continue to require or prefer Christian faith for governance, executive, senior leadership, chaplaincy and other critical roles.

Such clarity is essential to safeguarding our ability to operate in accordance with our Founding Purpose while continuing to inclusively employ staff and serve the wider community.

We would welcome the opportunity to elaborate on these matters or to participate in any further consultations.

Yours sincerely,

Ian Hammond  
Chairman

Sharon Callister  
Chief Executive Officer