

**NSW Law Reform Commission**

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## **DCA Letter of support for reforms to the NSW Anti-Discrimination Act**

Dear Commission,

Thank you for the opportunity to provide comment on the Commission's consultation paper: *Review of the Anti-Discrimination Act 1977 (NSW). Unlawful conduct (May 2025)*. Diversity Council Australia (DCA) is the independent not-for-profit peak body leading diversity and inclusion in the workplace. We have over 1,300 member organisations, reaching approximately 20% of the Australian labour market.

DCA has previously made a number of submissions in relation to anti-discrimination laws:

- September 2023 – [responding to the draft Terms of Reference for the review of the Anti-Discrimination Act \(ADA\)](#)
- March 2023 – [responding to the Australian Law Reform Commission's Religious Educational Institutions and Anti-Discrimination Laws Inquiry](#)
- December 2021 – [responding to the Inquiry into the Religious Discrimination Bill 2021 and related Bills](#)
- In 2020, [responding to the draft Religious Discrimination legislation](#)

DCA's expertise is workplace diversity and inclusion, and we do not have expertise in analysing legislation. This letter is intended to provide general support for amendments that will help prevent discrimination in the workplace and/or support those experiencing harassment and discrimination at work.

DCA recognises the critical importance of listening to, and centring the lived experience of marginalised groups and the expertise of peak bodies representing these groups. Our role in providing a response is to support those voices and views as a strong ally. With this in mind, we strongly support an intersectional approach in law reform and policy development. DCA's definition of intersectionality describes how different aspects of a person's identity expose them to overlapping forms of discrimination that greatly increase their marginalisation. DCA has just released [a guide](#) to applying intersectionality in the workplace and encourages the Commission to refer to this guide for further information.

A clear and urgent need is to update the language in the Anti-Discrimination Act (ADA). DCA recognises that language is constantly evolving, and it is important that legislation keeps up with contemporary standards. In the area of discrimination, a number of concepts and terms have changed. In relation to terms describing a person's identity, one such standard is to recognise and prioritise people's lived experiences. DCA recognises and respects an individual's right to identify with terms that they feel most comfortable with. DCA therefore recommends that the NSWLRC adopts the preferred terminology of those groups the ADA seeks to protect.

DCA strongly supports amendments to the ADA that promote substantive equality. Substantive equality facilitates more inclusive workplaces because it goes beyond formal equality – treating everyone in the same way – and aims to achieve equitable outcomes for all. DCA supports a shift in focus of the ADA to substantive equality to better acknowledge structural and systemic disadvantage resulting from historical, social or economic factors such as Indigeneity, gender, disability status, race, sexuality or the immigration experience.

The ADA can better promote substantive equality by requiring duty holders to provide adjustments for those with protected attributes. This may take the form of “special measures” and/or a “positive duty” to prevent discrimination, in the same way “positive duty obligations” work in the federal sphere.

The burden should fall on “duty holders” under the ADA to provide adjustments to promote equality and prevent discrimination, rather than burden those requiring the adjustments. This would help to reduce structural and/or systemic barriers to the participation and inclusion of all in a workplace.

DCA strongly supports further comprehensive consultation with those who experience the most discrimination – marginalised communities and groups that the ADA is designed to protect.

Yours sincerely,

**Catherine Hunter**  
CEO, Diversity Council Australia