

15 August 2025

The Honourable Tom Bathurst AC KC
Chairperson
NSW Law Reform Commission

Dear Mr Bathurst,

RE: Review of the *Anti-Discrimination Act 1977 (NSW)*

The Australian Hotels Association (**AHA**) NSW is a registered employer organisation under the *Fair Work (Registered Organisations) Act 2009 (Cth)* that represents the interests of hotel and hospitality businesses throughout Australia. The AHA NSW membership encompasses a broad range of venues, including pub-style hotels, bars, taverns, restaurants, and international accommodation hotels.

AHA NSW member hotels employ over 72,000 people and contribute \$6.8 billion in value to the NSW economy every year. They provide over 1.9 million hours of work annually to bartenders, chefs, cooks, cleaners and many more, with females comprising 56% of the workforce. Every year, NSW hotels host over 89,000 community and sporting group meetings, over 108,000 live music and DJ events, and over 42,000 trivia nights. NSW hotels provide over 45,000 rooms for tourists and travellers, from the humble bush pub to five star CBD hotels, with 13,000 of these rooms in regional areas.

We welcome the opportunity to provide this brief submission in respect of the review of the *Anti-Discrimination Act 1977 (NSW)* (**ADA NSW**).

Question 6.4: The Provision of Goods and Services — Coverage

The AHA NSW submits the ADA NSW should be amended such that hotel and hospitality workers are protected from discrimination and harassment by patrons.

Specifically, the AHA NSW seeks the introduction of provisions modelled on s.41 of the *Anti-Discrimination Act (NT) 1992* (**ADA NT**) which makes it unlawful for a person who receives goods or services to discriminate against the provider of those goods or services and/or their staff.

In support of this proposed amendment to the ADA NSW, the AHA NSW makes the following submissions:

- i. The ADA NSW currently only provides protections for patrons from discrimination by hotels and their staff members. There is no

equivalent protection for staff or the business when discriminatory conduct originates from a patron.

- ii. If a hotel worker is subjected to discriminatory or harassing conduct by a patron, the worker and/or the hotel/employer does not currently have any recourse against the patron under the ADA NSW. The only available remedies are internal workplace policies or in extreme cases the criminal code of NSW, neither of which are designed to address the everyday realities of discrimination and harassment in service settings such as a pub or hotel.
- iii. Hospitality employees engage frequently and directly with members of the public and, as a result, are at heightened risk of experiencing inappropriate, offensive or discriminatory behaviour from patrons.
- iv. While AHA NSW members have a duty under NSW workplace health and safety legislation to provide a safe workplace, their ability to take effective action is limited if the law does not recognise patron-initiated discrimination as being unlawful.

The AHA NSW calls on the Commission to recommend the introduction of a provision in the ADA NSW modelled on s.41 of the ADA NT that makes it expressly unlawful for patrons or customers to discriminate against our members' staff in the course of receiving goods and/or services.

s.41 of the *Anti-Discrimination Act (NT) 1992*

For context, in 2022, the Northern Territory Parliament amended the ADA NT to address a significant gap in anti-discrimination protections for workers in the hospitality and service sectors. Specifically, s.41 of the ADA NT was amended such that it is unlawful for a person who receives goods, services or facilities to discriminate against the person providing those goods, services or facilities on the basis of an attribute protected by the ADA NT.

The reform was introduced in response to evidence of widespread discrimination and harassment by customers against frontline workers, particularly in the hospitality and taxi industry. s.41 of the ADA NT now stipulates as follows:

*“A person who supplies **or receives** goods, services or facilities (whether or not for reward or profit) must not discriminate against another person:*

- (a) *by failing or refusing to supply **or receive** the goods, services or facilities; or*

- (b) *in the terms and conditions on which the goods, services or facilities are supplied or received; or*
- (c) *in the way in which the goods, services or facilities are supplied or received; or*
- (d) *by treating the other person less favourably in any way in connection with the supply or receipt of the goods, services or facilities.”*

(our emphasis added)

Conclusion

The AHA NSW urges the Commission to ensure any reforms to the ADA NSW are practical, balanced and responsive to the needs of the hospitality sector as both a major employer and a provider of goods, services and accommodation to the people of New South Wales.

Thank you for your consideration of this submission. Should the Commission require further information or clarification, the AHA NSW would be pleased to provide additional input or participate in further consultations.

Yours faithfully,

SEAN MORRISSEY
Deputy Chief Executive Officer
Chief Legal Counsel