

22 February 2023

## **1. Summary**

The University of Divinity:

- a) supports in principle the four Propositions developed by the Consultation Paper with respect to reform of Australia’s Anti-Discrimination Laws as an effective basis for balancing the intersecting rights of freedom from discrimination and freedom of religion in religious tertiary educational institutions; and
- b) recommends alternatives to the term “religious ministers” for the purpose of exemptions from anti-discrimination laws in the wording and application of the Propositions.

## **2. The University of Divinity**

The University of Divinity welcomes the opportunity to make a submission to the ALRC in its capacity as a predominantly religious tertiary educational institution.

The University was established in 1910 for the purpose of offering degrees in divinity and its associated disciplines to assist Christian churches in meeting the training requirements for their ministers and leaders, in an era when other Universities were prohibited from offering such degrees.

Today approximately one-third of the University’s students proceed to formal religious ministry, one-sixth study for an academic career in theology or to deepen their understanding of faith, and one-half are undertaking professional development relating to a career in areas such as education, health, aged care, counselling and chaplaincy.

The University is comprised of 12 Colleges throughout Australia representing Catholic, Orthodox and Protestant streams of Christianity. It is a diverse ecumenical community with long experience in promoting respectful engagement across strongly-held differences in religious beliefs and practices. Our diversity is embodied, for example, in the initiative of one College to offer Australia’s first university subject in queer theology, and the responsibility of other Colleges only to train celibate men for ordained religious roles.

This diversity is protected by the *University of Divinity Act 1910 (Vic)* that prohibits a religious test being imposed upon students or staff of the University. The University’s Code of Conduct requires staff and students “to promote the responsible exercise of academic freedom and academic judgement” while also “respecting the integrity and diversity of theological traditions represented in the Colleges of the University” (<https://divinity.edu.au/code-of-conduct/>)

## **3. ALRC Consultation Paper: Response**

The University supports the aim of the Consultation Paper, to hold together a variety of human rights through the four proposed Propositions, and thanks the ALRC for its careful attention to the integration of the right to freedom from discrimination on the basis of attributes and relationships on the one hand with the right to freedom in expression and practice of religion on the other. We note that these are not competing but overlapping and intersecting rights and are often the subject of debate within particular religions.

The University's view is that – in relation to religious tertiary educational institutions – the Propositions strike a reasonable and workable balance. This is especially so in honouring the right of a religious educational institution to maintain a particular ethos and to give preference to employing staff who embody that ethos, while avoiding as far as possible the need to discriminate against staff or students on the basis of attributes or relationships. This approach is closely aligned with the University's historic and present approach to these issues, as embodied in its Code of Conduct.

#### **4. Proposed amendment: exemptions for “religious ministers”**

The Propositions make repeated use of the phrase “training of religious ministers and members of religious orders, and regulate participation in religious observances or practices, unfettered by sex discrimination laws”, as the basis for exemptions regarding student education and staff selection in anti-discrimination laws.

We suggest that this phrase is too narrow to suit its purpose for the following reasons:

- a) The term “religious ministers and members of religious orders” is predominantly Christian religious language that does not reflect the pluralism of contemporary Australian society, a society that includes aunts and uncles, elders, priests, pastors, imams, rabbis to name a few terms.
- b) Many of our graduates exercise religious roles that require theological education and relate directly to religious beliefs and practices, but do so in the capacity of worker or volunteer rather than as a formally commissioned or ordained minister. For example, a significant proportion of our graduates are religious education teachers in Christian schools.
- c) A majority of students enrolled in theological programs at the University of Divinity are not training for formal religious ministry but are seeking a range of outcomes. For example, we regularly have cohorts of students seeking to obtain a critical understanding of a particular religion's doctrines and practices as presented by a qualified staff member who is an adherent of that religion and able to explain its beliefs and observances.

We therefore recommend that this phrase be reworked to have a somewhat broader application, such reference to the “training of religious leaders, workers, volunteers and adherents” or similar.

Furthermore, we note the use of the word “unfettered” is unhelpful. While we appreciate the legal intent of this word, many of our staff and students *welcome* the protection provided by anti-discrimination laws as a necessary foundation for the full participation of all people in the life of our University, churches and communities. These members of our community do not experience anti-discrimination laws as a fetter. We suggest that the words “exempt from” might be a more neutral turn of phrase.