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Attorney-General's Department

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Multicultural Council of Tasmania Submission re Religious Discrimination Bills

The Multicultural Council of Tasmania (MCOT) welcomes the opportunity to make a submission on the second exposure drafts of the religious discrimination bills.

MCOT is the peak body representing more than 70 multicultural organisations in Tasmania.

MCOT has two recommendations.

1. Religious statements on race

MCOT recommends that paragraphs 42(1)(a) and 42(1)(b) of the proposed *Religious Discrimination Bill* be amended so that they do not apply to the Commonwealth's *Racial Discrimination Act 1975*, nor to the references to race in the various anti-discrimination and equal opportunity Acts of the States and Territories.

- Paragraphs 42(1)(a) and 42(1)(b) relate to non-extreme 'statements of belief' (i.e. 'statements of belief' that are not malicious and do not encourage a serious criminal offence or constitute harassment, threats, vilification or serious intimidation).
- The paragraphs deem that non-extreme 'statements of belief' do not constitute discrimination or insulting/offending conduct under Commonwealth, State and Territory anti-discrimination legislation.
- The effect of the paragraphs would be to legalise a range of statements regarding race, age, sex, sexuality, disability, etc. MCOT's comments are limited to the issue of race given MCOT's role of representing multicultural organisations.

MCOT opposes the proposed legalisation of a subset of currently unlawful statements regarding race (namely, those statements that are non-extreme 'statements of belief') for three reasons:

- A. Such legalisation would treat the avoidance of religious discrimination as more important than the avoidance of racial discrimination.

- B. Such legalisation would mean that an honest statement made in good faith that insults, offends or humiliates a person on the basis of race would be:
- lawful if the person making the statement is of a religion with teachings that accord with the statement, and
 - unlawful if a different person makes the statement.

This is inequitable. It is also improper and impractical, as the state would need to scrutinise and rule on a person's faith and a religion's teachings.

- C. Such legalisation involves the Commonwealth over-riding State and Territory laws, such as Tasmania's *Anti-Discrimination Act 1998*. Commonwealth over-riding of State and Territory laws leaves communities across the federation with laws that are not tailored to their preferences.

2. Religious bodies implementing Commonwealth programs

MCOT recommends that section 11 of the proposed *Religious Discrimination Bill* be amended so as not to apply to section 27 of the Bill.

- Section 11 relates to conduct done in good faith by a religious body (defined to exclude hospitals and accommodation aged care facilities) in accordance with the teachings of the religion. Section 11 deems such conduct to not be discrimination for the purposes of the *Religious Discrimination Bill*.
- Section 27 outlaws discrimination against people because of their religion when administering a Commonwealth law or implementing a Commonwealth program.
- The effect of Section 11's proposed application to Section 27 would be to allow discriminatory administration and implementation of Commonwealth laws and programs if the administration or implementation is done by a religious body.

Religious bodies should not be exempted from the ban on discrimination in the administration and implementation of Commonwealth laws and programs. Taxpayers of all religions pay for Commonwealth programs. Their access to these programs should not be hindered simply because a religious body is involved in administration or implementation.

Yours sincerely,



Duncan Spender
Chief Executive Officer



Waqas Durrani
Chair