20 March 2025

Mr Adam Bandt MP
Leader of the Australian Greens Party
Parliament House
CANBERRA ACT 2600

By-email: adam.bandt.mp.aph.gov.au

Dear Mr Bandt,

Faith Leader Questions for the Australian Greens – 2025 Election Campaign

As leaders of religious communities and faith traditions, we write to you now in light of the approaching federal election. As leaders and representatives of our religious communities we would like to give the Australian Greens the opportunity to respond to questions concerning religious freedom that we have put to both the Labor Government and the Opposition.

There is a very real possibility that whichever party is successful this election will be governing from a minority position with the crossbench. Given the important role that you would play in that crossbench, we would like to know your positions in relation to freedom of religion and freedom of speech. The commitments set out in your policy platform will affect the communities of faith that we represent.[1] We are therefore writing to you seeking your answers to our questions below so that our communities can understand the Australian Greens' party stance on issues that are of vital importance to our communities.

Our intention is to make this letter and your responses to it available to our faith communities, to better inform their choices at the next election. Thank you for considering these issues that are important to our faith communities.

1. During a meeting with key faith leaders on 12 April 2024 the Prime Minister, Anthony Albanese, made the commitment to those present that religious protections for faith groups 'will not go backwards while I'm Prime Minister of Australia.'[2]

   Will the Australian Greens make the same commitment to the Australian people as a key part of their policy platform, should they play a role in the formation or operation of a minority government in the next term of Parliament?

[1] See, eg, The Australian Greens Policies: Education https://greens.org.au/policies/education, point 28 under the heading 'Schools' and The Australian Greens Policies: Sexual Orientation, Gender Identity and Intersex: https://greens.org.au/policies/sexual-orientation-gender-identity-and-intersex, points 26, 27 & 31.

[2] https://www.csa.edu.au/CSA/Resources-and-Media/Media-Centre/Media-Release/2024/Christian_Schools_Welcome_PMs_Commitment

2. On 09 February 2022 you voted for the complete repeal of protections afforded to faith-based schools by section 38 of the *Sex Discrimination Act1984* (Cth).[3] As part of your policy platform you have similarly committed to the removal of religious exemptions from anti-discrimination laws. This would render religious schools unable to preferentially hire teachers and staff that affirm the faith of the school as well as being unable to conduct school activities in accordance with their doctrines, tenets and beliefs free from threat of anti-discrimination claims.[4] These commitments are antithetical to the continuing operation and welfare of faith-based institutions, including religious schools. You and other members of the crossbench have backed other similar reforms that will have detrimental impacts on the operations of religious institutions and schools.[5]

   You opposed the extension of existing Federal anti-discrimination protections to people of religious faith and religious institutions in the last term of Government.[6] The Labor Government and Opposition in the current term consulted with faith leaders in an effort to pass a bi-partisan Religious Discrimination Bill that would protect people of faith and religious bodies from discrimination (building upon the leadership and support the then Coalition Government offered the passage of such legislation through the House of Representatives in February 2022). This consultation necessarily included careful consideration of the existing protections for faith-based institutions in the *Sex Discrimination Act 1984* (SDA) that ensure these organisations can operate according to their religious convictions and give effect to the human rights of parents. Faith leaders, as reported in The Australian,[7] put forward to both the Government and the Opposition detailed proposals that charted a way forward allowing the Government to pass laws

---

[3] Commonwealth, *Parliamentary Debates*, House of Representatives, 09 February 2022, 282 (Mr Adam Bandt MP).

[4] The Australian Greens, The Australian Greens Policies: Sexual Orientation, Gender Identity and Intersex: https://greens.org.au/policies/sexual-orientation-gender-identity-and-intersex, points 27.

[5] See, eg, Zali Steggall OAM MP, Helen Haines MP and Adam Bandt MP voted on 09 February 2022 for complete repeal of the protections afforded to faith-based schools by section 38 of the *Sex Discrimination Act 1984* (Cth) in respect of both staff, teaching and student conduct. The following independents have made statements that indicate they hold a similar position: Zoe Daniel: https://zoedaniel.com.au/policies/lgbtqia-equality-and-inclusion/; Monique Ryan: https://aleph.org.au/2022/05/13/statement-dr-monique-ryan-independent-for-kooyong/; Allegra Spender: https://www.allegraspender.com.au/discrimination; Kate Cheney: https://x.com/chaneyforcurtin/status/1490855944590602241. The following persons also supported the inclusion of additional attributes that would impact on the operations of religious institutions and schools by way of amendment to the then Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Bill 2022 on 07 November 2022: Allegra Spender, Kylie Tink, Monique Ryan, Zoe Daniel, Sophie Scamps, Kate Chaney, Adam Bandt, Stephen Bates. Max Chandler-Mather and Elizabeth Watson-Brown.

[6] Commonwealth, *Parliamentary Debates*, House of Representatives, 09 February 2022, 256.

[7] Rosie Lewis 'Catholic Church leaders say faith laws "going backwards"' *The Australian* (30 May 2024) https://www.theaustralian.com.au/nation/politics/catholic-church-leaders-say-faith-laws-going-backwards/news-story/df9cbd237082ba297cf3ebadb5688597#:~:text=Two%20of%20Australia's%20most%20senior,go%20a%20long%20way%20backwards%E2%80%9D; Mark Fowler 'Is religious discrimination reform to die without a whimper?' *The Australian* 21 August 2024 https://www.theaustralian.com.au/commentary/is-religious-discrimination-reform-to-die-without-a-whimper/news-story/08b951f8929db4245785ea92082af444

ensuring that religious schools can preference employees who share their beliefs. Those proposals gave effect to Australian Law Reform Commissioner Justice Rothman's recommendation that religious schools be given a 'positive right'.[8] The faith leaders' proposals removed existing broad exemptions within the Sex Discrimination Act and replaced them with targeted provisions to enable a religious educational institution to continue to employ staff who model and teach their beliefs and also to respond to conduct that would undermine their ethos.

Will the Australian Greens party commit to the Australian people, particularly to people of faith, that the rights of religious individuals, institutions and schools will be protected if it plays a role in the formation or operation of a minority government in the next term of Parliament? In particular, will the Australian Greens party commit to support the legislating of a Religious Discrimination Bill and amendments to the Sex Discrimination Act in line with the proposals put forward by faith leaders if it plays a role in the formation or operation of a minority government in the next term of Parliament?

3. Relevantly, we also note that the National Policy Platform of the current government contains various commitments that could impact detrimentally on religious institutions:

   a. its commitment to the Australian Human Rights Commission Amendment Costs Protection Act 2024 (which is not supported by the Sex Discrimination Commissioner's Respect@Work Report, notwithstanding the citation of that report in the Policy Platform);[9] and

   b. its commitment to consolidate existing anti-discrimination laws and conduct 'a review of existing exemptions to ensure that they do not prevent access to essential social services.'[10] Such changes to religious charity provision of essential services could see faith-based charities lose their ability to maintain their religious character. The right of religious institutions to establish and maintain faith-based charities (sometimes delivering essential services) in accordance with their religious convictions (including schools) is protected in international law.[11]

[8] Justice Stephen Rothman 'Amendments to the Sex Discrimination Act 1984 and proposals for Religious Discrimination Act' Notre Dame Sydney, Law School, Annual Religious Liberty Conference (12 April 2024) https://www.aacs.net.au/international-context-religious-freedom.
[9] Ibid 36, [63b].
[10] Ibid 79, [59].
[11] See, eg, UN General Assembly, *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*, A/RES/36/55, (25 November 1981), art 6(b); Fowler, Mark, 'Identifying Faith-Based Entities for the Purpose of Anti-Discrimination Law' in Paul T Babie, Neville G Rochow and Brett G Scharffs (eds), *Freedom of Religion or Belief* (Edward Elgar Publishing, 2020)

We are further concerned by the following developments during the current term of government:

a. the erosion of Human Rights protection in the proposed Australian Human Rights Act[12] which provided limited protections to religious institutions and did not affirm the place of parental rights to ensure the religious and moral education of their children;

b. the recommendation of the Productivity Commission to abolish the basic religious charity exception; and

c. the failure to progress the prior Human Rights Legislation Bill 2022 moved by the preceding Liberal Government, that passed the House of Representatives, which would have recognised the 'indivisibility and universality of human rights, and their equal status in international law' (an important clarification that the Expert Panel on Religious Freedom sought to ensure that religious freedom is not treated as a second order right), protected religious institutions and schools that hold a traditional view of marriage from the loss of their charity status, and clarify that chapels on school grounds are within the exception within the *Marriage Act 1961*.

Will you commit to addressing our concerns raised by each of these limitations on the manifestation of religious freedom through institutions?

4. Faith Leaders are supportive of limited and appropriately drafted civil anti-vilification provisions. We believe it should be unlawful to intimidate, harass or vilify (incite hatred) on the basis of religious belief or non-belief. However, it must not be unlawful merely to "insult" or "offend". Some key religious beliefs are offensive to adherents of other religions, and a religious vilification law that made it unlawful to cause offense because of a religious belief would be a blasphemy law by another name. Further the requirement that a person 'engage in the conduct reasonably and in good faith' requires clarification to ensure that 'reasonable' does not require a judge to assess whether a religious belief itself is reasonable. 'Good faith' should not require a religious institution to demonstrate 'fidelity or loyalty' to the principles of anti-discrimination law.[13] According to the legal definition of 'harass' it could be unlawful if the preaching of religious truth led a person to be 'disturbed persistently'.[14] Undefined, the word 'intimidate' may have a similarly detrimental effect on

[12] Here we are referring to the proposals put forward by the Australian Human Rights Commission and by the Parliamentary Joint Committee for Human Rights. See the concerns raised, for example, in the submissions to the Parliamentary Joint Committee on Human Rights by Professor Nicholas Aroney, Professor Richard Ekins KC (Hon) and Dr Benjamin Saunders and by Associate Professor Mark Fowler here:
https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/HumanRightsFramework/Submissions.

[13] This is the standard applied for the purposes of the 'good faith' exception in Commonwealth vilification law, see *Bropho v Human Rights and Equal Opportunity Commission* (2004) 135 FCR 105 ([102] French J).

[14] The Federal Court has provided the following definition of harassment (*Re Susan Hall; Dianne Susan Oliver and Karyn Reid v A & A Sheiban Pty Ltd; Dr Atallah Sheiban and Human Rights and Equal Opportunity Commission* (1989) 85 ALR 503, 531; [1989] FCA 72; 20 FCR 217 (15 March 1989) [9]):

> The word "harass" implies the instillation of fear or the infliction of damage; as is indicated by the definition of the term in the Macquarie Dictionary: "1. to trouble by repeated attacks, incursions, etc., as in war or hostilities; harry; raid. 2. to disturb persistently; torment, as with troubles, cares, etc."

religious teaching in this country. Consistent with the reforms recently implemented in Queensland, New South Wales and the Northern Territory, the prohibition should also be subject to the general religious bodies exception for acts done in conformity with religious beliefs or to avoid injury to religious susceptibilities.

Would a Religious Discrimination Bill supported by the Australian Greens include a civil prohibition on religious vilification, such that it is unlawful to engage in public conduct, on the ground of a person's religious belief or activity, that a reasonable person would consider would intimidate, harass or vilify that person in a way that addresses the above concerns?

5. The incidence of state and federal legislation that undermine free speech is alarming. Changes to the anti-vilification regime in Queensland,[15] proposed changes in Victoria,[16] changes to federal criminal hate speech laws,[17] changes to privacy laws[18] and misinformation laws (including the failed Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2024 and the Basic Online Safety Expectations (BOSE) Determination), and ongoing proposals in various other states to amend anti-vilification laws are eroding the free speech of ordinary Australians in the absence of robust exceptions. These laws place the validity of opinions at the whim of bureaucrats or allow judges to scrutinise the validity of religious doctrine.

   The recently enacted Criminal Code Amendment (Hate Crimes) Bill 2024 (Cth) ably illustrates the pressures being placed upon free speech. Senator Matthew Canavan proposed an amendment to that Bill to clarify that 'force' and 'violence' mean 'physical violence', and thus do not include psychological injury. This amendment addressed concerns held by various of the signatories to this letter that the Bill would impact on the teaching of, and practices consistent with, traditional beliefs on gender and sexuality.[19]

   Will you commit to legislating Senator Canavan's clarification should you play a role in the formation or operation of a minority government in the next term of Parliament? Will the Australian Greens also commit to protecting free speech in Australia by not introducing laws that will further erode religious freedom and freedom of speech and

[15] Respect at Work and Other Matters Amendment Bill 2024 (Qld). See the issues identified at https://contactyourmp.org.au/qld-ad-respect/.
[16] https://www.smh.com.au/politics/victoria/allan-government-faces-showdown-with-faith-groups-over-hate-laws-20241115-p5kqz2.html
[17] Criminal Code Amendment (Hate Crimes) Bill 2024 (Cth), <https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r7240>
[18] Privacy and Other Legislation Amendment Bill 2024, <https://www.aph.gov.au/Parliamentary_Business/Bills_LEGislation/Bills_Search_Results/Result?bId=r7249>.
[19] See, eg, Anglican Church Diocese of Sydney Senate Standing Committee on Legal and Constitutional Affairs Inquiry into Criminal Code Amendment (Hate Crimes) Bill 2024 (Cth) Submission 4; Combined Churches, Response to Questions on Notice. See also the submission to the same Inquiry from Freedom for Faith on behalf of Australian Baptist Ministries, Australian Christian Churches, the Anglican Church Diocese of Sydney, the Presbyterian Church of Australia, the Seventh-day Adventist Church, Christian Schools Australia and the Australian Association of Christian Schools.

improving general understanding in Australia of the importance of religious freedom and free speech for a prosperous and flourishing Australia?

6. Both the Federal Government and state and territory governments continue to introduce new laws that erode essential human rights. Freedom of conscience, thought and religion, freedom of association and the right to peaceful assembly are being incrementally undermined in Australia. **Will the Australian Greens:**

   a. **increase protections for freedoms of conscience, thought, religion, association and peaceful assembly in accordance with its international commitments under Articles 18, 19, 21 and 22 of the International Covenant on Civil and Political Rights;**

   b. **commit not to introduce legislation that will further erode these freedoms?**

   c. **commit to supporting the establishment of a parliamentary inquiry into how Australia's human rights obligations are not being met and how those freedoms are being eroded?**

7. The recent findings in the case of *Tickle v Giggle* demonstrated that the *Sex Discrimination Act 1984* (Cth) now poses a risk to people of faith, faith-based organisations and women's only services and facilities. Many religions hold beliefs and engage in religious practices that differentiate on the basis of biological sex, but the judgment in *Tickle v* Giggle has interpreted 'sex' to be non-binary and changeable and not to mean 'biological sex', which is contrary to treaties such as the CEDAW and the ICCPR.

   Will the Australian Greens commit to ensuring that there are protections for women's only services and facilities and faith-based institutions in the Sex Discrimination Act so that they can continue to engage in practices, including religious practices, that differentiate on the basis of biological sex?

Signed,

The Rt Rev Dr Michael Stead
Bishop of South Sydney
Anglican Diocese of Sydney

Imam Shadi Alsuleiman
President
Australian National Imams Council

Robert Gregory
Chief Executive Officer
Australian Jewish Association

Dr Rachel Carling
Director of Public Policy
Christian Schools Australia

Rev David Burke
Moderator General
Presbyterian Church of Australia

Vanessa Cheng
Executive Officer
Australian Association of Christian Schools

Pastor Terry Johnson
President for the Australian Union Conference
Seventh-day Adventist Church

Pastor Mark Edwards
Religious Freedom Representative
Australian Christian Churches

Hussein Faraj
President
United Shia Islamic Foundation

Rev Mark Wilson
National Ministries Director
Australian Baptist Ministries

Surinder Jain
Vice President Interfaith and Hindu Hub
Hindu Council of Australia

Richard Botta
Senior Pastor
C3 Church Carlingford and Wentworthville

Abdullah Kahn
Chair
Islamic Schools Association of Australia

Dr Ali Al Samail
Chief Executive Officer
Australian Ahl Al Bait Islamic Centre

Rev Eun Chan Sung
President
The Council of the Minister of Korean Churches in Sydney Australia

Rev Billy Lee
Chairman
Sydney Chinese Christian Churches Association

雪梨華人基督教聯會

Mike Southon
Executive Director
Freedom for Faith

FREEDOM FOR FAITH

Rev Dr Ross Clifford
Executive Director
NSW Council of Churches

NSW Council of Churches
Advancing a Christian Perspective

Rev Bruce Bennett
Acting National Director
Fellowship of Independent Evangelical Churches

FIEC
Fellowship of Independent Evangelical Churches

Dr Byung Guen Kim
President
Sydney Holy City Movement

SYDNEY HOLY
SYDNEY HOLY CITY MOVEMENT

Dr Mohamed Mohideen OAM
President
Islamic Council of Victoria

ICV
ISLAMIC COUNCIL OF VICTORIA

Pastor Paul McCarthy
President
Foursquare Australia