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Submission on the Religious Freedom Bills – 2nd Exposure Drafts

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Background

This submission is made on behalf of the members of the Order of the Knights of the Southern Cross in Australia (**KSC**), an organisation with the aim of “Service and Christianity”. The organisation has recently celebrated its centenary, having commenced in New South Wales in 1919. At the time that it was established religious discrimination was rife and social justice and equity was often denied to anyone professing and practising the Catholic Faith. Although such sectarianism has now ceased, we are now experiencing a new sectarianism where all people of Christian faith are being vilified for espousing their long-held beliefs and practices, for example those upholding traditional marriage, the advantages of the traditional family and pro-life from conception to natural death are being denigrated and vilified.

Membership of the KSC is extensive across the whole of Australia. It consists of Catholic professional men, who hold many prominent positions in every electorate. Members come from a variety of backgrounds and many are very influential individuals actively involved in political, social, judiciary and business circles. The organisation works closely to support the Catholic teachings and to assist members to practice and communicate their beliefs to make Australia a better country for all individuals.

A major charitable initiative of the KSC in Australia has been the establishment of Southern Cross Care in the various states of Australia. These organisations in the various States have provided aged care and retirement services to aged Australians of all faiths. These organisations were founded and nurtured by the members of the KSC in that State and these members have made and continue to make many sacrifices to care for the aged.

The KSC is canonically recognised by the Catholic Church in Australia and is also a member of the International Alliance of Catholic Knights (**IACK**). By a Decree dated 14 April 1992, IACK was given official recognition by the Vatican as an International Catholic Association of the Faithful, in accordance with codes 298 – 311 and 321 – 329 of the Code of Canon Law. This recognition does not make the KSC a direct Catholic Church entity, but it is regarded as a Catholic Association in Australia as described below.

When Catholics group themselves privately, even when they seek and obtain recognition by the Church as being a Catholic association (such as the Society of St Vincent de Paul and the KSC), those Catholics or societies are not subject to the supervision of the Church authority that recognised it, except that the Church authority could withdraw its approval and recognition if that association or society acted contrary to Catholic faith and teaching or

caused scandal. The association's activities are the private actions of Catholics, rather than the actions of the Catholic Church. In Australia, the KSC has been recognised by the Australian Catholic Bishops Conference (ACBC) as an association of the faithful.

Therefore, we believe that any restriction on the right to religious freedom to only Church entities will not provide entities such as The Society of St Vincent de Paul and the KSC and their aged care initiative any protection against those that would seek to discriminate on the basis of those organisations espousing Catholic or wider Christian beliefs.

Many instances of prosecution of individuals in overseas countries have been well documented. In Queensland, a monthly meeting of a branch of the Knights of the Southern Cross Queensland (KSCQ) was cancelled when a vocal mob in opposition to a speaker organised to present to that branch descended onto the parish church and hall to obstruct and hinder those attending – a clear case of religious intolerance.¹

Comments on the 2nd Exposure Drafts

We believe that it is a positive step to see the aim of the Religious Discrimination Bill is to protect against discrimination on the basis of religious belief or activity in key areas of life. Given the KSC's own recent experience of intolerance as detailed above, the KSC agree with the conclusions of the *Religious Freedom Review* which recognised an opportunity to enhance the statutory protection of the right to freedom of religion in Australian law. We believe this is necessary.

However, we consider that there are still significant issues and clarifications required that should be remedied so that the legislation performs its stated aims:

1. The recognition of religious bodies as being involved in 'commercial activities'.

This includes educational establishments, schools, hospital and aged care facilities, and societies such as the Society of St Vincent de Paul, Southern Cross Care, Caritas, and the KSC. This protection should extend to all bodies conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion. In our view these rights should not be limited where entities undertake commercial activities (regardless of the extent of those activities).

2. Providing legal protection for 'religious corporate bodies' from discrimination. A corporate body may possess a religious belief or ethos as noted in 1 above and we believe **must be** provided with legal protection from discrimination and enabled to preference employees that support and share their religious faith, ethos and values.

3. Provide protection for employees to make statements of faith without fear of retribution from their employer regardless of the \$50M threshold.

In our view, the \$50 million threshold proposed needs to be removed, as does the exception for government bodies and entities. Individuals or people should not lose their job or career or be discriminated against based on a statement of faith.

4. Restrict State and Territory Governments from overriding the Bill and developing alternative legislation.

In our view, State or Territory based laws **should not** override federal legislation in providing religious bodies or individuals protection from discrimination. Currently, whilst the draft legislation excludes council by-laws from lawful religious activity, it otherwise allows State or Territory laws to override the Bill. The KSC considers that it should be

¹ See, for example, <https://www.theaustralian.com.au/nation/politics/the-ugly-samesex-clash-at-brisbane-church-that-proved-quite-tame/news-story/0a5db9f89a7f0abddea0dd8d8cfffabc6>.

ensured that this suite of legislation covers all activities except those that are defined in the Bill as a 'Serious offence'.

5. Provide legal and financial protection to Charitable Organisations and not lose their tax-exemption status due to their faith-based values.

The current draft legislation proposes an amendment to the Charities Act 2013 (Cth) that will clarify that a charity may advocate for a traditional view of marriage and not fail the requirement that it conform to public policy. This principle should be extended so that any charitable organisations espousing **any** religious views on any matter **must** retain their charitable status without any qualifications or exceptions.

6. Ensure health practitioners and faith-based Organisations are enabled to exercise conscientious objections.

We believe that the 'right to conscientious objection' is a critical recognition needed. Catholic hospitals and Catholic aged care facilities, and their staff, (Church owned and/or operated with an espoused Catholic ethos) **should not be compelled** to provide procedures such as abortions or physician assisted suicide by a State or Commonwealth law. Or, as experienced recently in Canada, a Church based school should not be compelled (or penalised) to teach radical gender theory against their beliefs.

Conclusion

In our view, it is essential that religious freedoms are extended to all people within Australian society to allow those of any faith to practice and communicate their beliefs.

Already issues have arisen in Tasmania where the Catholic Archbishop was taken to the State Anti-Discrimination Commission for distributing a paper on traditional marriage to his churches and schools. In Queensland, Victoria and Tasmania pro-life advocates have been prosecuted for espousing their beliefs where freedom of expression is very much inferior to those available in the US and many other countries.

Australia should be a country where freedom of speech and freedom of religion are fundamental rights for all individuals, and we would urge the panel to ensure that these fundamental freedoms are enshrined as rights in statute.

Yours sincerely

Dr George Sekulla JP
Supreme Knight

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