

Religious Discrimination Bill Election Questionnaire – Responses by Major Parties

Bishop Michael Stead sent an Election Questionnaire to all the candidates across all electorates to obtain their views on the Religious Discrimination Bill and related issues, such as the ability of religious schools to teach and operate in accordance with their faith and ethos (see Appendix IV below). A summary of responses to the Election Questionnaire by the major parties are reproduced below. The responses are colour-coded in the table to indicate how favourable each party's responses were in relation to protecting religious freedom (*Green/Good, Orange/Concerning, Red/Bad, Grey/Unsure*). Editorial comments are in italics and emphases were added to important details in the responses.

Question	Liberal-National ¹	Labor ²	Greens
1.If you are elected, would you vote in favour of legislation that gives the same or better protections for people and organisations of faith as the RDB 2021 legislation package during the term of the next Parliament?	Yes	"We commit to you that we will act on this [<i>i.e., to protect Australians against discrimination on the basis of religious belief and activity</i>] as a priority if we form government after the coming election"	No, but I support prohibiting religious discrimination by another means (give details): "As set out in the Greens Committee report on the Religious Discrimination bills ³ ... That report recommended that 'the Australian Government develop a Charter of Rights, to protect religious belief amongst other protected attributes.'"
Comment from Bishop Stead		<i>The breadth and strength of the proposed protection against religious discrimination is unknown.</i>	

¹ The Federal Director of the Liberal Party, Mr Andrew Hirst, provided a response to the Election Questionnaire on behalf of the Coalition government which is attached below (see Appendix I).

² The ALP declined to provide responses to the questions in the election questionnaire. Instead, the Shadow Attorney-General, Mr Mark Dreyfus, provided a letter on behalf of the federal Labor Party. To facilitate comparison with other respondents, quotations from this letter have been extracted next to the relevant question in the table below. Editorial comments are in italics. A copy of the letter from Mr Dreyfus is available here <https://religiousdiscriminationquestionnaire.au/docs/ALPresponse.pdf>.

³https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Religiousdiscrimination/Report/section?id=committees%2freportsen%2f024869%2f79122

Question	Liberal-National	Labor	Greens
<p>2.The effect of clauses 7-9 of the RDB is that it is not discrimination on the basis of religious belief for a religious body to preference in employment matters people who share the same religious beliefs as the body for all positions (subject in some cases to having a publicly available policy about this). Will you and your party enact legislation with this effect?</p>	<p>Yes</p>	<p>“an Albanese Labor Government will act to ... protect teachers from discrimination at work, while maintaining the right of religious schools to preference people of their faith in the selection of staff.”</p>	<p>We will enact legislation that permits religious bodies to preference people who share the same religious beliefs only where sharing those beliefs is an inherent requirement of a position as determined by a tribunal or court.</p>
<p>Comment from Bishop Stead</p>		<p><i>This commitment is only with respect to religious schools. Labor has not made any commitments with respect to other types of religious bodies.</i></p> <p><i>The commitment to maintain ‘the right of religious schools to preference’ in employment only confirms the ability to preference ‘people of their faith’. It is uncertain how this will interact with other discrimination law that would protect staff who engaged in conduct that is inconsistent with a religious institution’s beliefs (for example, the Labor Victorian Government recently enacted law that limits the ability of religious institutions and schools to employ people who authentically uphold and act consistently with their beliefs).</i></p> <p><i>The commitment refers only to the ‘selection of staff’, and not the ongoing employment of staff. This could also impact detrimentally upon the ability of religious institutions to maintain an authentic religious ethos.</i></p>	<p><i>An inherent requirement test would introduce significant uncertainty for religious institutions and impact detrimentally upon their ability to maintain a religious ethos.</i></p>

		<p><i>Labor has not responded to the question of whether it would recognise that when a religious body acts in accordance with its beliefs that it is not discriminating. This is an important legal principle that assists in preventing courts from treating religious freedom as a lesser or secondary right in a manner that is not consistent with the consensus of international law.</i></p>	
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Question	Liberal-National	Labor	Greens
<p>3.If your answer to question 2 indicates you support the principle that religious educational bodies should be able to give preference in some or all employment matters to people who share the same religious beliefs as the body, would your party's implementation of the RDB override inconsistent state legislation on this issue?</p>	<p>Yes, in the manner currently set out in clause 11</p>	<p><i>No comment.</i></p>	<p>No, our RDB would not override inconsistent state legislation on this issue</p> <p>"We support the development of a Charter of Rights, that would protect religious belief amongst other protected attributes."</p>
<p>4.If your answer to question 2 indicates you support the principle that all religious bodies (e.g. churches and mosques, and faith-based charities not just religious educational institutions) should be able to give preference in employment matters to people who share the same religious beliefs as the body, would your party's implementation of the RDB override inconsistent state legislation which prevents any such religious body from giving such preference?</p>	<p>No, our Religious Discrimination Bill would not override inconsistent state legislation on this issue.</p>	<p><i>No comment.</i></p>	<p>No, we do not plan to introduce a Religious Discrimination Bill</p>

Question	Liberal-National	Labor	Greens
<p>5.The Greens have proposed to repeal s.38(1) and (2) of the <i>Sex Discrimination Act</i> 1984 (concerning employees of religious education institutions). This issue is included in the reference to the <i>Australian Law Reform Commission</i> (ALRC) because of the complex interaction between the right of teachers to non-discrimination and the right of religious schools to give preference in employment to people who share the religious beliefs of the school. What is your position in relation to the repeal of s.38(1) and (2) of the <i>SDA</i>?</p>	<p>As there is no consensus on these other amendments, the Morrison Government will pursue passage of the Religious Discrimination Bill as stand-alone legislation in the next Parliament.</p>	<p>“Labor is also committed to the Australian Law Reform Commission (ALRC) process. If elected, we would recommence the ALRC’s Inquiry into the Framework of Religious Exemptions in Anti-Discrimination Legislation”</p> <p><i>The following statement was made in Mr Dreyfus’ press release (9 February 2022):</i> “Labor also supports removing discrimination against teachers while recognising the right of religious schools to give preference to hiring school staff of their own faith. Because these two rights interact in a complex way, we believe this issue cannot be rammed through the Parliament and will need to be carefully considered by the Australian Law Reform Commission.”</p>	<p>We will not wait for the ALRC report and will repeal s.38 with no concurrent amendments.</p>
<p>Comment from Bishop Stead</p>		<p><i>The comments made at question 2 are equally applicable to this question.</i></p>	

Question	Liberal-National	Labor	Greens
<p>6. Faith-based schools are concerned that the proposal simply to repeal s.38(3) of the <i>Sex Discrimination Act 1984 (SDA)</i> (concerning students) will create uncertainty about whether schools can still teach in accordance with doctrine and have policies to maintain the religious ethos of the school. This is because of the very broad definition of discrimination in education in s.21 of the <i>SDA</i>. Religious schools have asked that, if s.38(3) is to be repealed, concurrent amendments ensure that religious schools are able to teach their doctrine and have policies to maintain the religious ethos of the school. What is your position in relation to s.38(3) of the <i>SDA</i>?</p>	<p>As there is no consensus on these other amendments, the Morrison Government will pursue passage of the Religious Discrimination Bill as stand-alone legislation in the next Parliament.</p>	<p>“ an Albanese Labor Government will act to ... protect all students from discrimination on any grounds”</p> <p><i>The covering letter from Mr Dreyfus with the response to the Election Questionnaire (also reproduced below) includes the assurance that “in implementing protections against religious discrimination, Labor is committed to ensuring that religious schools can continue to teach in accordance with their doctrine.”</i></p> <p><i>The following statement was also made in Mr Dreyfus’ press release (9 February 2022): Labor will introduce amendments to protect students against discrimination “while still ensuring that religious schools are able to conduct themselves in accordance with the teachings of their faith.”</i></p>	<p>We plan to repeal s.38(3), with no concurrent amendments</p>
<p>Comment from Bishop Stead</p>	<p><i>On 10 February 2022 the Morrison Government moved an amendment to prevent religious schools from expelling a student on the basis of their sexuality. That amendment would not have created uncertainty as to whether religious schools can still teach in accordance with doctrine and have policies to maintain the religious ethos of the school.</i></p>	<p><i>Notwithstanding the above statements on 10 February 2022 Labor voted to repeal section 38(3) without any further amendment. If passed, this would have created uncertainty as to whether religious schools can still teach in accordance with doctrine and have policies to maintain the religious ethos of the school.</i></p>	<p><i>This will create uncertainty about whether schools can still teach in accordance with doctrine and have policies to maintain the religious ethos of the school.</i></p>

Question	Liberal-National	Labor	Greens
<p>7. Do you and your party support the principle underlying clause 12 of the RDB that people who make statements of belief or unbelief that are in good faith, without malice, and made without vilifying, threatening, harassing or intimidating others, or inciting the commission of a serious criminal offence should not be subject to discrimination complaints which are based purely on the statements (noting that those people will remain subject to all other legal consequences such as reasonable employer conduct rules and laws against vilification and defamation)? In particular, what is your position on the retention of clause 12?</p>	<p>We support the principle of clause 12 described above and will retain clause 12 in its current form.</p>	<p><i>No comment.</i></p>	<p>We do not support explicit protections for statements of belief.</p> <p><i>This means that complaints such as that made against Tasmanian Catholic Bishop Porteous for teaching a traditional view of marriage and the family can continue to be made under that State's law.</i></p>
<p>Comment from Bishop Stead</p>		<p><i>In the parliamentary debates on the RDB in Feb 2022, Labor sought to limit significantly the scope of clause 12. If passed the Labor amendment would have meant, for example, that complaints such as that made against Tasmanian Catholic Bishop Porteous for teaching a traditional view of marriage and the family can continue to be made under that State's law.</i></p>	

Question	Liberal-National	Labor	Greens
<p>8. Do you and your party support the principle expressed in clause 10, which enables minority faith-based communities to cater for the specific religious and cultural needs of that community?</p>	<p>Yes, we will enact clause 10 in its current form.</p>	<p><i>No comment.</i></p>	<p>Yes, but we will achieve this in a different way (give details):</p> <p>As set out in the Greens Committee report on the Religious Discrimination bills, we support the development of a Charter of Rights, that would protect religious belief amongst other protected attributes.</p>
<p>9. Do you and your party support extending the scope of the RDB to protection against 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 threaten, intimidate, harass or vilify that person?</p>	<p>The Morrison Government engaged in extensive consultation with stakeholders on the content of the Religious Discrimination Bill over many years. The Bill also went through two separate parliamentary committees. Anti-vilification provisions were not advanced in either of these committees and were not included in the recommendations of the committee.</p>	<p>"an Albanese Labor Government will .. prevent discrimination against people of faith, including through the introduction of religious anti-vilification protections"</p>	<p>Yes, we will enact anti-vilification provisions to this effect.</p>
<p>Comment from Bishop Stead</p>	<p><i>Whether any anti-vilification clause should be adopted should be the subject of wide public consultation. Anti-vilification clauses have the potential to introduce uncertainty and impose limitations on free speech.</i></p> <p><i>The Labor Party moved a religious anti-vilification clause as an amendment to the Religious Discrimination Bill. It was not subject to public consultation.</i></p>		

Question	Liberal-National	Labor	Greens
<p>10. Do you and your party support reasonable limits on the ability of employers to impose conduct rules which restrict or penalise employees for making moderate statements of belief or unbelief? In particular, do you and your party support a “necessary and proportionate” requirement in the RDB that an employer’s conduct rule must be necessary to achieve a reasonable result concerning the employer’s business or activity and that the rule must impose no greater restriction on an employee’s freedom to make moderate statements of belief or unbelief than is necessary to achieve that result?</p>	<p>The RDB will provide protection to those of faith against discrimination in their daily life, including in the workplace. In addition to the appointment of a Religious Discrimination Commissioner, the Bill proposed by the Morrison Government contemplates a review two years after enactment to ensure the law operates as intended and to consider whether further refinements or greater protections are required.</p>	<p><i>No comment.</i></p>	<p>We support the “necessary and proportionate” requirement for employer conduct rules relating to employee statements of belief and unbelief made both inside and outside of work contexts</p>
<p>11. Do you and your party support a provision in a RDB that employers and education providers need to make <i>reasonable</i> adjustments for people to act in conformity with their genuine religious beliefs, unless those reasonable adjustments would create an unjustifiable hardship for the employer or education provider? For example, a Jewish or Seventh Day Adventist person is required to work overtime on their Sabbath (a Saturday) when the employer could, without incurring unjustifiable hardship, roster other staff without a Sabbath observance need to work at that time. (The provision would be the same as the reasonable adjustments provision already in the <i>Disability Discrimination Act</i>.)</p>	<p>We do not support a provision requiring employers and education providers to make reasonable adjustments for employees and students.</p> <p>“The RDB will provide protection to those of faith against discrimination in their daily life, including in the workplace...”</p>	<p><i>No comment.</i></p>	<p>We support a provision requiring employers and education providers to make reasonable adjustments for employees and students to act in conformity with their genuine religious beliefs, unless those reasonable adjustments would create an unjustifiable hardship for the employer or education provider.</p>

Question	Liberal-National	Labor	Greens
<p>12. The Ruddock Expert Panel concluded, citing the earlier recommendation of the Australian Charities and Not-for-profits Commission, that amendments should be made to the <i>Charities Act 2013</i> to clarify that faith-based and religious charities will not lose their tax exemption where they hold or express a traditional view of marriage. Will you and your party legislate such a protection, including in respect of both the public benefit and public policy requirements imposed upon Australian charities?</p>	<p>We support amendments to the Charities Act 2013 to clarify that faith-based and religious charities will not lose their tax exemption where they hold or express a traditional view of marriage, including in respect of both the public benefit and public policy requirements imposed upon Australian charities.</p>	<p><i>No comment.</i></p>	<p>We do not support amendments to the Charities Act 2013 to clarify that faith-based and religious charities will not lose their tax exemption where they hold or express a traditional view of marriage.</p>

Authorised by
The Right Reverend Dr Michael Stead, Bishop of South Sydney
Anglican Church Diocese of Sydney
Postal Address: PO Box Q190, QVB Post Office NSW 1230



Appendix I – Liberal Party’s Response to Election Questionnaire

CCHQ 2022

STRONG ECONOMY. STRONGER FUTURE.

4 May 2022

The Right Reverend Dr Michael Stead
Bishop of South Sydney
Anglican Church Diocese of Sydney
Email: mstead@sydney.anglican.asn.au

Dear Dr Michael Stead

Thank you for the opportunity to provide the views of the Coalition on important issues facing your members. A response to your questions is attached.

The last two years have been tough for our country.

Despite the setbacks, Australia’s economic recovery is leading the world.

Unemployment is at 4%, the equal lowest in 48 years. And the recent Budget included the biggest turnaround in our finances in over 70 years.

There’s much more to be done. To build a stronger future, our plan will:

1. Deliver more jobs and working towards unemployment below 4%.
2. Deliver tax relief for workers and small businesses.
3. Invest in roads, rail, water infrastructure and renewable energy technology.
4. Make record investments in health and other essential services.
5. Invest in stronger defence, security and borders.

This election provides a clear choice, with real consequences for Australia.

The alternative at this election is Anthony Albanese and Labor. Labor would weaken our economy and put Australia’s recovery at risk. Now is not the time to change course.

Thank you for communicating our response to your members.

Yours sincerely,



Andrew Hirst
Federal Director

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www.liberal.org.au [LiberalPartyAustralia](https://www.facebook.com/LiberalPartyAustralia)

Authorised by A Hirst, Liberal Party of Australia, Cnr Blackall & Macquarie Sts, Barton ACT 2600



INATIONALS
for Regional Australia

MORRISON GOVERNMENT RESPONSE TO THE ANGLICAN CHURCH DIOCESE OF SYDNEY

- 1. If you are elected, would you vote in favour of legislation that gives the same or better protections for people and organisations of faith as the Religious Discrimination Bill 2021 and its two associated Bills (RDB 2021 legislation package) during the term of the next Parliament?**

Yes.

- 2. The effect of clauses 7-9 of the RDB is that it is not discrimination on the basis of religious belief for a religious body to preference in employment matters people who share the same religious beliefs as the body for all positions (subject in some cases to having a publicly available policy about this). Will you and your party enact legislation with this effect?**

Yes.

- 3. If your answer to question 2 indicates you support the principle that religious educational bodies should be able to give preference in some or all employment matters to people who share the same religious beliefs as the body, would your party's implementation of the RDB override inconsistent state legislation on this issue?**

Yes, in the manner currently set out in clause 11 of the Religious Discrimination Bill which overrides the Victorian law that prevents preferencing by educational bodies and allows other State laws to be overridden if listed by regulation.

- 4. If your answer to question 2 indicates you support the principle that all religious bodies (e.g. churches and mosques, and faith-based charities not just religious educational institutions) should be able to give preference in employment matters to people who share the same religious beliefs as the body, would your party's implementation of the RDB override inconsistent state legislation which prevents any such religious body from giving such preference?**

No, our Religious Discrimination Bill would not override inconsistent state legislation on this issue.

Comment: The Religious Discrimination Bill will provide protection to those of faith against discrimination in their daily life. In addition to the appointment of a Religious Discrimination Commissioner, the Bill proposed by the Morrison Government contemplates a review two years after enactment to ensure the law operates as intended and to consider whether further refinements or greater protections are required.

- 5. The Greens have proposed to repeal s.38(1) and (2) of the Sex Discrimination Act 1984 (concerning employees of religious education institutions). This issue is included in the reference to the Australian Law Reform Commission (ALRC)**

because of the complex interaction between the right of teachers to non-discrimination and the right of religious schools to give preference in employment to people who share the religious beliefs of the school. What is your position in relation to the repeal of s.38(1) and (2) of the SDA?

Comment: As there is no consensus on these other amendments, the Morrison Government will pursue passage of the Religious Discrimination Bill as stand-alone legislation in the next Parliament.

- 6. Faith-based schools are concerned that the proposal simply to repeal s.38(3) of the Sex Discrimination Act 1984 (SDA) (concerning students) will create uncertainty about whether schools can still teach in accordance with doctrine and have policies to maintain the religious ethos of the school. This is because of the very broad definition of discrimination in education in s.21 of the SDA. Religious schools have asked that, if s.38(3) is to be repealed, concurrent amendments ensure that religious schools are able to teach their doctrine and have policies to maintain the religious ethos of the school. What is your position in relation to s.38(3) of the SDA?**

Comment: As there is no consensus on these other amendments, the Morrison Government will pursue passage of the Religious Discrimination Bill as stand-alone legislation in the next Parliament.

- 7. Do you and your party support the principle underlying clause 12 of the RDB that people who make statements of belief or unbelief that are in good faith, without malice, and made without vilifying, threatening, harassing or intimidating others, or inciting the commission of a serious criminal offence should not be subject to discrimination complaints which are based purely on the statements (noting that those people will remain subject to all other legal consequences such as reasonable employer conduct rules and laws against vilification and defamation)? In particular, what is your position on the retention of clause 12?**

We support the principle of clause 12 described above and will retain clause 12 in its current form.

- 8. Do you and your party support the principle expressed in clause 10, which enables minority faith-based communities to cater for the specific religious and cultural needs of that community?**

Yes, we will enact clause 10 in its current form.

- 9. Do you and your party support extending the scope of the RDB to protection against 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 threaten, intimidate, harass or vilify that person?**

Comment: The Morrison Government engaged in extensive consultation with stakeholders on the content of the Religious Discrimination Bill over many years. The Bill also went through two separate parliamentary committees. Anti-vilification provisions were not advanced in either of these committees and were not included in the recommendations of the committee.

Freedom to practice our religious beliefs without discrimination is fundamental to who we are and who we must be as a tolerant, multicultural, and multi-faith liberal democracy. The Morrison Government will always work with faith communities to ensure this freedom endures.

- 10. Do you and your party support reasonable limits on the ability of employers to impose conduct rules which restrict or penalise employees for making moderate statements of belief or unbelief? (“Moderate statements” means statements made in good faith, without malice, and without vilifying, threatening, harassing or intimidating others, or inciting the commission of a serious criminal offence)? In particular, do you and your party support a “necessary and proportionate” requirement in the RDB that an employer’s conduct rule must be necessary to achieve a reasonable result concerning the employer’s business or activity and that the rule must impose no greater restriction on an employee’s freedom to make moderate statements of belief or unbelief than is necessary to achieve that result?**

Comment: The Religious Discrimination Bill will provide protection to those of faith against discrimination in their daily life, including in the workplace. In addition to the appointment of a Religious Discrimination Commissioner, the Bill proposed by the Morrison Government contemplates a review two years after enactment to ensure the law operates as intended and to consider whether further refinements or greater protections are required.

- 11. Do you and your party support a provision in a RDB that employers and education providers need to make reasonable adjustments for people to act in conformity with their genuine religious beliefs, unless those reasonable adjustments would create an unjustifiable hardship for the employer or education provider? For example, a Jewish or Seventh Day Adventist person is required to work overtime on their Sabbath (a Saturday) when the employer could, without incurring unjustifiable hardship, roster other staff without a Sabbath observance need to work at that time. (The provision would be the same as the reasonable adjustments provision already in the Disability Discrimination Act.)?**

We do not support a provision requiring employers and education providers to make reasonable adjustments for employees and students.

Comment: The Religious Discrimination Bill will provide protection to those of faith against discrimination in their daily life, including in the workplace. In addition to the appointment of a Religious Discrimination Commissioner, the Bill proposed by the Morrison Government contemplates a review two years after enactment to ensure

the law operates as intended and to consider whether further refinements or greater protections are required.

- 12. The Ruddock Expert Panel concluded, citing the earlier recommendation of the Australian Charities and Not-for-profits Commission, that amendments should be made to the Charities Act 2013 to clarify that faith-based and religious charities will not lose their tax exemption where they hold or express a traditional view of marriage. Will you and your party legislate such a protection, including in respect of both the public benefit and public policy requirements imposed upon Australian charities?**

We support amendments to the Charities Act 2013 to clarify that faith-based and religious charities will not lose their tax exemption where they hold or express a traditional view of marriage, including in respect of both the public benefit and public policy requirements imposed upon Australian charities.

Appendix II – Labor Party’s Response to Election Questionnaire



**Shadow Attorney-General
Shadow Minister for Constitutional Reform
Federal Member for Isaacs**

21 April 2022

The Right Reverend Dr Michael Stead
Bishop of South Sydney
Anglican Church Diocese of Sydney

By email only: mstead@sydney.anglican.asn.au

Dear Reverend Stead

Thank you for your ongoing engagement with me and with the wider Australian Labor Party on the Religious Discrimination Bill 2021, and on the broader issues regarding how best to protect Australians against discrimination on the basis of religious belief and activity. Thank you also for the election questionnaire you are sending to Labor MPs and candidates seeking their individual views on progressing the key protections contained in the Morrison Government’s abandoned legislative package, including their views on a range of specific issues and proposed drafting amendments to future legislation. As the responsible Shadow Minister I am responding on behalf of the federal Labor Party.

Over the last three years Mr Albanese and I have been working closely on how best to expand Commonwealth anti-discrimination laws to deal with the problem of discrimination against people of faith. We have appreciated your engagement throughout this process.

Again, I wish to express my disappointment that the legislation offered by the Morrison-Joyce Government was produced at the last minute, without meaningful consultation with the Australian Labor Party, and failed to deliver on important public and private commitments the Prime Minister made.

As you know, Labor believes all Australians have the right to live their lives free from discrimination, including people of faith. We commit to you that we will act on this as a priority if we form government after the coming election. I reiterate that an Albanese Labor Government will act to:

- prevent discrimination against people of faith, including through the introduction of religious anti-vilification protections;
- protect all students from discrimination on any grounds; and,
- protect teachers from discrimination at work, while maintaining the right of religious schools to preference people of their faith in the selection of staff.

I appreciate that your election questionnaire includes a series of specific issues and proposed solutions. However, we are not in a position to work through detailed policy implementation proposals, or to consult fully upon them with the wider Australian community on the eve of an election. It is my strong view that the Liberal Government approached its Religious Discrimination Bill in a needlessly divisive, secretive and partisan manner, and that it is also unfortunate the Prime Minister made contradictory promises to different people and groups ensuring the bill would not pass the Parliament.

As you know, having behaved in a manner that generated counter-productive controversy and division, the Government then abandoned its own bill, and with that, its election promise to legislate in this important area of reform.

If an Albanese Labor Government is elected, I commit to you that Labor will approach the matters you and others have raised in an inclusive and constructive manner, in consultation with people of faith and religious organisations, including schools, as well as with all Australians interested in this important work to advance the nation. This will continue the open and constructive approach we have embraced over the last three years. Furthermore, if Labor is successful at the forthcoming election, we will be in a position to engage the resources of government to consult widely on the policy detail and drafting of legislative protections against discrimination for people of faith.

Labor is also committed to the Australian Law Reform Commission (ALRC) process. If elected, we would recommence the ALRC's Inquiry into the Framework of Religious Exemptions in Anti-Discrimination Legislation, which the Morrison Government has placed on hold, and would carefully consider what the ALRC recommends in formulating legislation. I know this is also important to you. Some stakeholders have suggested there may be other areas the ALRC should examine in this context, and we remain open to considering a further reference to the ALRC if we win government.

I close by reiterating that Anthony Albanese and Labor see the expansion of our anti-discrimination framework to protect Australians of faith as an opportunity to unite the nation, not divide it. We look forward to working with you to achieve this for people of faith across the country. I would welcome the opportunity to meet with you at an early time of convenience after the election.

I would welcome the opportunity to speak with you further about the matters you have raised, and about Labor's general approach to this important area of legal reform. If you would like to arrange a time to speak with me, please contact my EA, Sally Gallagher (sally.gallagher@aph.gov.au; (03) 9580 4651).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Mark Dreyfus', written in a cursive style.

Mark Dreyfus QC MP

Appendix III – Greens’ Response to Election Questionnaire

Election Questionnaire Response: Australian Greens

<p>1. If you are elected, would you vote in favour of legislation that gives the same or better protections for people and organisations of faith as the RDB 2021 legislation package during the term of the next Parliament?</p>	<p>No, but I support prohibiting religious discrimination by another means (give details)</p> <p>As set out in the Greens Committee report on the Religious Discrimination bills,⁴ “The Australian Greens want greater international respect for and protection of human rights, and for Australia to ratify and adhere to, both locally and abroad, all human rights conventions. That should include an “Australian bill of rights that incorporates Australia’s international human rights obligations into domestic law. In line with that commitment to human rights, the Australian Greens support legislation that protects the rights of people to hold and practice their religious beliefs. That report recommended that “That the Australian Government develop a Charter of Rights, to protect religious belief amongst other protected attributes.”</p>
<p>2. The effect of clauses 7-9 of the RDB is that it is not discrimination on the basis of religious belief for a religious body to preference in employment matters people who share the same religious beliefs as the body for all positions (subject in some cases to having a publicly available policy about this). Will you and your party enact legislation with this effect?</p>	<p>We will enact legislation that permits religious bodies to preference people who share the same religious beliefs only where sharing those beliefs is an inherent requirement of a position as determined by a tribunal or court</p> <p>As set out in the Greens Committee report on the Religious Discrimination bills, we support the development of a Charter of Rights, that would protect religious belief amongst other protected attributes. The question of employment protections, including protecting workers from being discriminated against on the basis of their religion, should be dealt with as part of that process.</p>
<p>3. If your answer to question 2 indicates you support the principle that religious educational bodies should be able to give preference in some or all employment matters to people who share the same religious beliefs as the body, would your party’s implementation of the RDB override inconsistent state legislation on this issue?</p>	<p>No, our RDB would not override inconsistent state legislation on this issue</p> <p>As set out in the Greens Committee report on the Religious Discrimination bills, we strongly oppose the override of existing state and territory anti-discrimination protections. We support the development of a Charter of Rights, that would protect religious belief amongst other protected attributes.</p>
<p>4. If your answer to question 2 indicates you support the principle that all religious bodies (e.g. churches and mosques, and faith-based charities not just religious educational institutions) should be able to give preference</p>	<p>No, our RDB would not override inconsistent state legislation on this issue</p> <p>As set out in the Greens Committee report on the Religious Discrimination bills, we strongly oppose the override of existing state and territory anti-discrimination protections. We support</p>

⁴https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Religiousdiscrimination/Report/section?id=committees%2freportsen%2f024869%2f79122

<p>in employment matters to people who share the same religious beliefs as the body, would your party's implementation of the RDB override inconsistent state legislation which prevents any such religious body from giving such preference?</p>	<p>the development of a Charter of Rights, that would protect religious belief amongst other protected attributes.</p>
<p>5. The Greens have proposed to repeal s.38(1) and (2) of the <i>Sex Discrimination Act 1984</i> (concerning employees of religious education institutions). This issue is included in the reference to the <i>Australian Law Reform Commission (ALRC)</i> because of the complex interaction between the right of teachers to non-discrimination and the right of religious schools to give preference in employment to people who share the religious beliefs of the school. What is your position in relation to the repeal of s.38(1) and (2) of the <i>SDA</i>?</p>	<p>We will not wait for the ALRC report and will repeal s.38 with no concurrent amendments.</p> <p>In line with the amendments moved in the House of Representatives, we oppose discrimination against students and teachers on the basis of sex, sexual orientation, gender identity, marital or relationship status or pregnancy. We support the development of a Charter of Rights, that would protect religious belief amongst other protected attributes.</p>
<p>6. Faith-based schools are concerned that the proposal simply to repeal s.38(3) of the <i>Sex Discrimination Act 1984 (SDA)</i> (concerning students) will create uncertainty about whether schools can still teach in accordance with doctrine and have policies to maintain the religious ethos of the school. This is because of the very broad definition of discrimination in education in s.21 of the <i>SDA</i>. Religious schools have asked that, if s.38(3) is to be repealed, concurrent amendments ensure that religious schools are able to teach their doctrine and have policies to maintain the religious ethos of the school. What is your position in relation to s.38(3) of the <i>SDA</i>?</p>	<p>We plan to repeal s.38(3), with no concurrent amendments</p> <p>We support the development of a Charter of Rights, that would protect religious belief amongst other protected attributes.</p>
<p>7. Do you and your party support the principle underlying clause 12 of the RDB that people who make statements of belief or unbelief that are in good faith,</p>	<p>We do not support explicit protections for statements of belief</p> <p>As set out in the Greens Committee report on the Religious Discrimination bills, we strongly oppose the override of existing state and territory anti-discrimination protections. We support</p>

<p>without malice, and made without vilifying, threatening, harassing or intimidating others, or inciting the commission of a serious criminal offence should not be subject to discrimination complaints which are based purely on the statements (noting that those people will remain subject to all other legal consequences such as reasonable employer conduct rules and laws against vilification and defamation)? In particular, what is your position on the retention of clause 12?</p>	<p>the development of a Charter of Rights, that would protect religious belief amongst other protected attributes.</p>
<p>8. Do you and your party support the principle expressed in clause 10, which enables minority faith-based communities to cater for the specific religious and cultural needs of that community?</p>	<p>Yes, but we will achieve this in a different way (give details)</p> <p>As set out in the Greens Committee report on the Religious Discrimination bills, we support the development of a Charter of Rights, that would protect religious belief amongst other protected attributes.</p>
<p>9. Do you and your party support extending the scope of the RDB to protection against 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 threaten, intimidate, harass or vilify that person?</p>	<p>Yes, we will enact anti-vilification provisions to this effect</p> <p>The Australian Greens supported the amendments moved in the Parliament to prevent vilification.</p>
<p>10. Do you and your party support reasonable limits on the ability of employers to impose conduct rules which restrict or penalise employees for making moderate statements of belief or unbelief? ("Moderate statements" means statements made in good faith, without malice, and without vilifying, threatening, harassing or intimidating others, or inciting the commission of a serious criminal offence)? In particular, do you and your party support a "necessary and proportionate" requirement in the RDB that an employer's conduct rule must be necessary to achieve a reasonable result concerning the employer's business or activity and that the rule must impose no</p>	<p>We support the "necessary and proportionate" requirement for employer conduct rules relating to employee statements of belief and unbelief made both inside and outside of work contexts</p> <p>As set out in the Greens Committee report on the Religious Discrimination bills, we support the development of a Charter of Rights, that would protect religious belief amongst other protected attributes.</p>

<p>greater restriction on an employee's freedom to make moderate statements of belief or unbelief than is necessary to achieve that result?</p>	
<p>11. Do you and your party support a provision in a RDB that employers and education providers need to make <i>reasonable</i> adjustments for people to act in conformity with their genuine religious beliefs, unless those reasonable adjustments would create an unjustifiable hardship for the employer or education provider? For example, a Jewish or Seventh Day Adventist person is required to work overtime on their Sabbath (a Saturday) when the employer could, without incurring unjustifiable hardship, roster other staff without a Sabbath observance need to work at that time. (The provision would be the same as the reasonable adjustments provision already in the <i>Disability Discrimination Act</i>.)</p>	<p>We support a provision requiring employers and education providers to make reasonable adjustments for employees and students to act in conformity with their genuine religious beliefs</p>
<p>12. The Ruddock Expert Panel concluded, citing the earlier recommendation of the Australian Charities and Not-for-profits Commission, that amendments should be made to the <i>Charities Act 2013</i> to clarify that faith-based and religious charities will not lose their tax exemption where they hold or express a traditional view of marriage. Will you and your party legislate such a protection, including in respect of both the public benefit and public policy requirements imposed upon Australian charities?</p>	<p>We do not support amendments to the Charities Act 2013 to clarify that faith-based and religious charities will not lose their tax exemption where they hold or express a traditional view of marriage.</p> <p>The Australian Charities and Not-for-profits Commission noted in its submission on the exposure drafts that such a change wasn't necessary https://www.ag.gov.au/sites/default/files/2020-05/Australian%20Charities%20and%20Not-for-profits%20Commission.pdf</p>

Appendix IV – Election Questionnaire on Religious Freedom Distributed to Political Candidates by Bishop Michael Stead

Below is the attached cover letter and questionnaire sent to election candidates to obtain their views on the Religious Discrimination Bill and related issues, such as the ability of religious schools to teach and operate in accordance with their faith and ethos.

Election Questionnaire: Religious Discrimination Bill and Related Matters

20 April 2022

Dear <CandidateName>

Faith communities in the electorate of <Electorate> are keen to know each election candidate's views about Federal legislative protection against discrimination on the basis of religious belief and activity.

The Religious Discrimination Bill 2021 legislative package was the fruit of extensive consultation with faith groups, and people of faith would like to know whether you support progressing the key protections contained in this legislative package.

The attached questionnaire is being sent to all candidates for the seat of <Electorate>. The responses will be tabulated and the results made publicly available.

Please complete this 12 question survey <at this link> to no later than Wednesday 4 May, 2022.

Signed



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

On behalf of:



Election Questionnaire – Religious Discrimination Bill and Related Matters (to protect people and organisations against discrimination on the grounds of their religious belief or activity)

On 9 February 2022 the **RDB 2021 legislation package** (consisting of the Religious Discrimination Bill 2021, two associated Bills and Government amendments arising from 2 parliamentary inquiries) was introduced. In the early hours of 10 February the *Religious Discrimination Bill 2021* (RDB) passed in the House of Representatives, 90 votes to 6, with near unanimous support from both the Government and the Opposition. Although the Bill was unable to progress to the Senate for other reasons, faith communities note the overwhelming in-principle support for this Bill to protect Australians against discrimination on the basis of religious belief.

The purpose of this questionnaire is to inform faith communities about election candidates' ongoing commitments to progress this matter after the Federal Election in May 2022.

1. If you are elected, would you vote in favour of legislation that gives the same or better protections for people and organisations of faith as the RDB 2021 legislation package during the term of the next Parliament?
 - Yes, I support the introduction of legislation with the same or better protections than the RDB 2021 legislation package in the first 3 months of the next Parliament
 - Yes, I support the introduction of legislation with the same or better protections than the RDB 2021 legislation package during the term of the next Parliament
 - No, but I support prohibiting religious discrimination by another means (give details)
 - No, I do not support legislative protection from discrimination for faith communities and people of faith

2. The effect of clauses 7-9 of the RDB is that it is **not discrimination** on the basis of religious belief for a religious body to preference in employment matters people who share the same religious beliefs as the body for all positions (subject in some cases to having a publicly available policy about this). Will you and your party enact legislation with this effect?
 - Yes, we will enact clauses 7-9 in their current form
 - Yes, we will enact legislation with similar effect to clauses 7-9 (give details)
 - We will enact legislation permitting preferencing in hiring only (but not after hiring)
 - We will enact legislation that permits religious bodies to preference people who share the same religious beliefs only where sharing those beliefs is an inherent requirement of a position as determined by a tribunal or court
 - We will enact legislation that only permits preferencing by religious bodies that are not publicly funded
 - No, we do not commit to legislative provisions to allow religious bodies to preference in employment matters

3. If your answer to question 2 indicates you support the principle that **religious educational bodies** should be able to give preference in some or all employment matters to people who share the same

religious beliefs as the body, would your party's implementation of the RDB override inconsistent state legislation on this issue?

- Yes, by creating a federal law entitlement for religious educational bodies to preference in employment (in the manner outlined in our response to question 2) which overrides any inconsistent State law without needing to make regulations listing State laws
 - Yes, in the manner currently set out in clause 11 of the RDB and the RDB 2021 legislation package which overrides the Victorian law that prevents preferencing by educational bodies and allows other State laws to be overridden if listed by regulation
 - No, our RDB would not override inconsistent state legislation on this issue
 - No, we do not plan to introduce a *Religious Discrimination Bill* package
4. If your answer to question 2 indicates you support the principle that **all religious bodies** (e.g. churches and mosques, and faith-based charities not just religious educational institutions) should be able to give preference in employment matters to people who share the same religious beliefs as the body, would your party's implementation of the RDB override inconsistent state legislation which prevents any such religious body from giving such preference?
- Yes, by creating a federal law entitlement for religious bodies to preference for all positions (in the manner outlined in our response to question 2) which overrides any inconsistent State law without needing to make regulations listing State laws
 - Yes, in the manner currently set out in clause 11 of the RDB which overrides the Victorian law (which law prevents preferencing by religious bodies and publicly funded charities) and allows other State laws to be overridden if listed by regulation
 - No, our RDB would not override inconsistent state legislation on this issue
 - No, we do not plan to introduce a *Religious Discrimination Bill*
5. The Greens have proposed to repeal s.38(1) and (2) of the *Sex Discrimination Act 1984* (concerning employees of religious education institutions). This issue is included in the reference to the *Australian Law Reform Commission* (ALRC) because of the complex interaction between the right of teachers to non-discrimination and the right of religious schools to give preference in employment to people who share the religious beliefs of the school. What is your position in relation to the repeal of s.38(1) and (2) of the *SDA*?
- We will wait for the ALRC report before making any decision on s.38(1) and (2). However, we commit to ensuring religious schools can continue to give preference in employment decisions to applicants and staff who share the religious beliefs of the school across all employment positions.
 - We will not wait for the ALRC report and will repeal s.38(1) and (2) with concurrent amendments to ensure religious schools can continue to give preference in employment decisions to applicants and staff who share the religious beliefs of the school across all employment positions.
 - We will not wait for the ALRC report and will repeal s.38 with no concurrent amendments.
6. Faith-based schools are concerned that the proposal simply to repeal s.38(3) of the *Sex Discrimination Act 1984* (*SDA*) (concerning students) will create uncertainty about whether schools can still teach in accordance with doctrine and have policies to maintain the religious ethos of the school. This is because of the very broad definition of discrimination in education in s.21 of the *SDA*. Religious

schools have asked that, if s.38(3) is to be repealed, concurrent amendments ensure that religious schools are able to teach their doctrine and have policies to maintain the religious ethos of the school. What is your position in relation to s.38(3) of the *SDA*?

- We will wait for the ALRC report before making any decision on s.38(3), but in any event, commit to ensuring that schools will be able to continue to teach in accordance with their beliefs and to have policies to maintain the religious ethos of the school.
 - We plan to repeal s.38(3), with concurrent amendments to ensure religious schools are able to teach in accordance with their beliefs and to have policies to maintain the religious ethos of the school
 - We plan to repeal s.38(3), with no concurrent amendments.
7. Do you and your party support the principle underlying clause 12 of the RDB that people who make statements of belief or unbelief that are in good faith, without malice, and made without vilifying, threatening, harassing or intimidating others, or inciting the commission of a serious criminal offence should not be subject to discrimination complaints which are based purely on the statements (noting that those people will remain subject to all other legal consequences such as reasonable employer conduct rules and laws against vilification and defamation)? In particular, what is your position on the retention of clause 12?
- We support the principle of clause 12 described above and will retain clause 12 in its current form
 - We support the principle of clause 12 described above and will achieve that in a different way (give details)
 - We will promote an amended clause 12 with scope limited to protection from discrimination complaints under the RDB only
 - We do not support explicit protections for statements of belief
8. Do you and your party support the principle expressed in clause 10, which enables minority faith-based communities to cater for the specific religious and cultural needs of that community?
- Yes, we will enact clause 10 in its current form
 - Yes, but we will achieve this in a different way (give details)
 - No, we do not support explicit provisions for minority faith-based communities to cater for the specific religious and cultural needs
9. Do you and your party support extending the scope of the RDB to protection against 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 threaten, intimidate, harass or vilify that person?
- Yes, we will enact anti-vilification provisions to this effect
 - Yes, but we will achieve this in a different way (give details)
 - No, we will not enact anti-vilification provisions
10. Do you and your party support reasonable limits on the ability of employers to impose conduct rules which restrict or penalise employees for making moderate statements of belief or unbelief? ("Moderate statements" means statements made in good faith, without malice, and without vilifying,

threatening, harassing or intimidating others, or inciting the commission of a serious criminal offence)? In particular, do you and your party support a “necessary and proportionate” requirement in the RDB that an employer’s conduct rule must be necessary to achieve a reasonable result concerning the employer’s business or activity and that the rule must impose no greater restriction on an employee’s freedom to make moderate statements of belief or unbelief than is necessary to achieve that result?

- We support the “necessary and proportionate” requirement for employer conduct rules relating to employee statements of belief and unbelief *made both inside and outside of work contexts*
- We support the “necessary and proportionate” requirement for employer conduct rules relating to employee statements *made outside of work contexts* (e.g. in non-work social gatherings and on non-work related social media)
- We support other reasonable limits [please specify below] on the ability of employers to impose conduct rules which restrict or penalise employees for making moderate statements of belief or unbelief.
- We do not support any limits on the ability of employers to impose conduct rules which restrict or penalise employees for making moderate statements of belief or unbelief whether within or outside work contexts.

11. Do you and your party support a provision in a RDB that employers and education providers need to make *reasonable* adjustments for people to act in conformity with their genuine religious beliefs, unless those reasonable adjustments would create an unjustifiable hardship for the employer or education provider? For example, a Jewish or Seventh Day Adventist person is required to work overtime on their Sabbath (a Saturday) when the employer could, without incurring unjustifiable hardship, roster other staff without a Sabbath observance need to work at that time. (The provision would be the same as the reasonable adjustments provision already in the *Disability Discrimination Act*.)

- We support a provision requiring employers and education providers to make *reasonable adjustments* for employees and students to act in conformity with their genuine religious beliefs, unless those reasonable adjustments would create an unjustifiable hardship for the employer or education provider.
- We do not support a provision requiring employers and education providers to make *reasonable adjustments* for employees and students.

12. The Ruddock Expert Panel concluded, citing the earlier recommendation of the Australian Charities and Not-for-profits Commission, that amendments should be made to the *Charities Act 2013* to clarify that faith-based and religious charities will not lose their tax exemption where they hold or express a traditional view of marriage. Will you and your party legislate such protection, including in respect of both the public benefit and public policy requirements imposed upon Australian charities?

- We support amendments to the Charities Act 2013 to clarify that faith-based and religious charities will not lose their tax exemption where they hold or express a traditional view of marriage, including in respect of both the public benefit and public policy requirements imposed upon Australian charities.
- We do not support amendments to the Charities Act 2013 to clarify that faith-based and religious charities will not lose their tax exemption where they hold or express a traditional view of marriage.