

Monash City Council

SUBMISSION BY MONASH CITY COUNCIL REGARDING THE CHANGES TO THE RACIAL DISCRIMINATION ACT

Introduction

Monash City Council is disappointed that the Attorney-General is proposing changes to the Racial Discrimination Act 1975. Monash City Council strongly opposes the Exposure Draft of the "Freedom of Speech (Repeal of Section 18C) Bill 2014 and urges the Federal Government to further consider the impact of the proposed changes to individuals and communities and to withdraw this proposed draft.

This submission has been informed through consultation with key Council Advisory Committees such as the Monash Multicultural Advisory Committee and the Monash Interfaith Gathering.

The City of Monash

The City of Monash is 81.5 square kilometres, located 20 km in Melbourne's southeast with an estimated resident population of 177,970.

The City of Monash population forms one of the most multicultural and culturally diverse local government areas in Victoria. The 2011 Census data showed us that at least 45 per cent of Monash residents were born overseas and 48 per cent speak a language other than English at home. In addition, 69 per cent of Monash residents had at least one parent who was born overseas and over thirty (30) religions are practiced in Monash.

In addition Monash City Council has a commitment to achieving a meaningful relationship with the Indigenous community in Monash and supports and promotes the process of reconciliation within Council and the broader community.

Monash City Council has a strong commitment to its community, supports cultural diversity and values and respects the expression of difference. Monash City Council has demonstrated significant leadership in the areas of multicultural policy development, service provision, inclusive participation and engagement of culturally and linguistically diverse community in the civic life of the municipality.

Monash City Council has adopted an Access and Equity Framework 2013-2017 that provides a context to all Council planning activities including the development of plans which are specific to the needs and interests of particular target groups including those from culturally and linguistically diverse backgrounds. The overarching principles that guide the Framework are those of Human Rights, Social Justice and Access and Equity.

In addition, Council's Multicultural Action Plan 2013-2017 which forms part of the Access and Equity Framework aims to guide Council to respond effectively and in an appropriate

manner to the needs and aspirations of people from the culturally and linguistically diverse community in the City of Monash.

Furthermore Monash City Council signed the Refugee Welcome Zone Declaration in 2001; the Community Accord in 2005, a public statement initiated by religious and community leaders and supported by the Victorian State Government which emphasises and promotes respect for cultural, religious and linguistic diversity; and is a partner in the 'Racism it Stops With Me' campaign overseen by the Australian Human Rights Commission.

Cultural, linguistic and religious diversity is very evident in the City of Monash and will only increase in the future. The increase diversity of the community requires proactive planning and responses that will meet the multifaceted and complex needs of this diverse community including issues of racism and social cohesion. Maintaining a cohesive and harmonious community requires capacity to engage and build relationships with the key community organisations and groups as well as develop cultural competency within the organisation.

Monash City Council is committed to lead with a focus on initiatives that eliminate overt and covert racism and to building a cohesive and harmonious community.

Monash City Council's position on the proposed changes

Monash City Council believes that the Act as it stands has served its purpose well and there is no reason to change it. As has been articulated by members of the Monash community and other key stakeholders participating in this debate over the past few weeks 'why change something that is not broken'. Council is of the view that the WHY question has not been answered satisfactorily by the Federal Government.

The concern expressed by community members is that there is no clear understanding on why the Federal Government wishes to make these changes. The rationale presented "does not make sense" and that which has been understood by the community is that "bigotry is acceptable" and that is why changes need to be made to the Act to ensure individual rights of Freedom of Speech are not eroded with respect to expressing bigotry and racist views or engaging in hate speech.

As it is understood, the proposed changes, virtually allow that anything can be said in the context of free speech irrespective of it being correct or not. As is outlined in the Exposure Draft in Section 4 everything appears to be exempt. As it is understood this Section clearly outlines that the restrictions of the act do 'not apply to words, sounds, images or writing spoken, broadcast, published or otherwise communicated in the course of participating in the public discussion of any political, social, cultural, religious, artistic, academic or scientific matter". It simply does not make sense on the one hand suggesting it is "unlawful to vilify or intimidate" and on the other exempting everything according to Section 4.

Concern has also been expressed at the proposed Section 3 which states that an act of vilification or intimidation will be determined that it is such "by the standards of an ordinary reasonable member of the Australian community' and 'not by the standards of any particular group'. The question has been posed as to what is the definition of an 'ordinary'

Australian, and who will determine this. It has been suggested that the best people to make an assessment of the impact of a racial vilification are those who are at the receiving end of such an act and not those who have never experienced it.

In addition the proposed changes by the Federal Government define the meaning of 'vilify' as "incite hatred against a person or a group of persons" and not in the broader term which encompasses denigration. Equally whilst the word intimidate is retained it is given a much narrower meaning, that of "to cause fear of physical harm" to a person, property or members of a group of persons. The proposed definition does not give due consideration to mental or psychological harm.

By removing the words "offend", "insult" and "humiliate" and by narrowing the definitions of "vilify" and "intimidate" the proposed changes are weakening the protection offered by the current legislation.

It has been well documented through research such as that of the Scanlon Foundation's *Mapping Social Cohesion* surveys, VicHealth's *More than Tolerance: Embracing diversity for health* and that of the Victorian Equal Opportunity & Human Rights Commission study *Reporting Racism: What you say matters*, the prevalence of racial discrimination and the harmful effects on the health and wellbeing of individuals and communities including mental health and other social impacts. In addition research undertaken by Monash City Council through the 2012 Monash in Four Community Survey suggests a growing prevalence of racism emerging in the Monash municipality.

It has been pointed out by the community that the Federal Government needs to be very firm with issues of racism and discrimination at the systemic and community level. The messages government, politicians and leaders of institutions send to the community play a significant role in communities feeling safe and included in society or otherwise. This is especially for those in the community that maybe in the minority.

It is important that the Federal Government including Members of Parliament clearly understand the impact racial vilification and racial discrimination has on individuals, families and communities as an extension. Those in the broader community that may not have experienced racism or any form of discrimination need to be educated about racism, what it is and how it can affect not only the lives of those who experience it but the society as a whole. They need to be able to 'walk in the shoes of the other' that has been on the receiving end of racism, to truly understand why it is important that 18C is not repealed.

Also it is important for the broader community to understand that laws such as the *Racial Discrimination Act 1975* is not a law just for the 'minorities' or for those often referred to as of non-English speaking backgrounds, distinguishing these from those of an Anglo-Saxon background, but a law for all Australians irrespective of their cultural, linguistic, ethnic or religious background and is there to be accessed by all and to protect all.

In a civil society Governments including local governments need to demonstrate leadership in this area, take a strong position about racism and ensure that laws that are in place to

protect individuals and have served the community well should be strengthened rather than repealed.

Monash City Council strongly believes that every member of the community irrespective of their background has the right to enjoy a happy, healthy, safe and productive life as well as protection from acts of racism and discrimination.

Equally Monash City Council asserts that the Federal Government needs to strengthen further legislation that protects such rights rather than remove important elements that would essentially render it ineffective.

Monash City Council is of the strong view that it is very important to nurture and support our communities to grow, develop and contribute to the social, economic and political spheres of life in a healthy and productive way. This not only would benefit individuals and community groups but society as a whole. Building good community relations between and amongst diverse groups, communities and individuals should be a paramount objective of all governments.

It is not acceptable that in a country such as Australia which has been built on migration and has successfully settled over the past century peoples from every corner of the world that we allow laws that encourage, in the name of free speech hatred and bigotry. Free speech should be upheld at the highest degree but a safety net also needs to be in place to protect the community from acts such as racial vilification and racial discrimination.

Conclusion

Monash City Council strongly opposes the proposed changes and urges the Federal Government to withdraw them.

A society which is riddled with fear, isolation, illness and mistrust of one another does not move forward but slowly decays and dies. This is not an Australia and a Monash community that Monash City Council envisages and aspires to create. It is important that we collectively and individually build on that which has been achieved in the past and strengthen rather than weaken current laws, legislation and policies.

Monash City Council strongly believes that the proposed changes will not contribute to advancing the interests of Australia as a civil society. On the contrary we assert that they will result in Australia taking a step backward at a local and international level.

As a society and as Governments we should lead in a way that promotes respect and understanding about each other and focus on harnessing the best that our multicultural society has to offer to make Australia a much stronger, inclusive and productive society.