

22nd February 2024

*RE: Review of Section 83C of the Education Act*

**To the Commissioner,**

On behalf of the NSW faith communities and their associated schools, Better Balanced Futures and Faith NSW would like to add some frames of reference and discussion points for consideration as part of the Government's review of Section 83C of the Education Act.

Within this document we have:

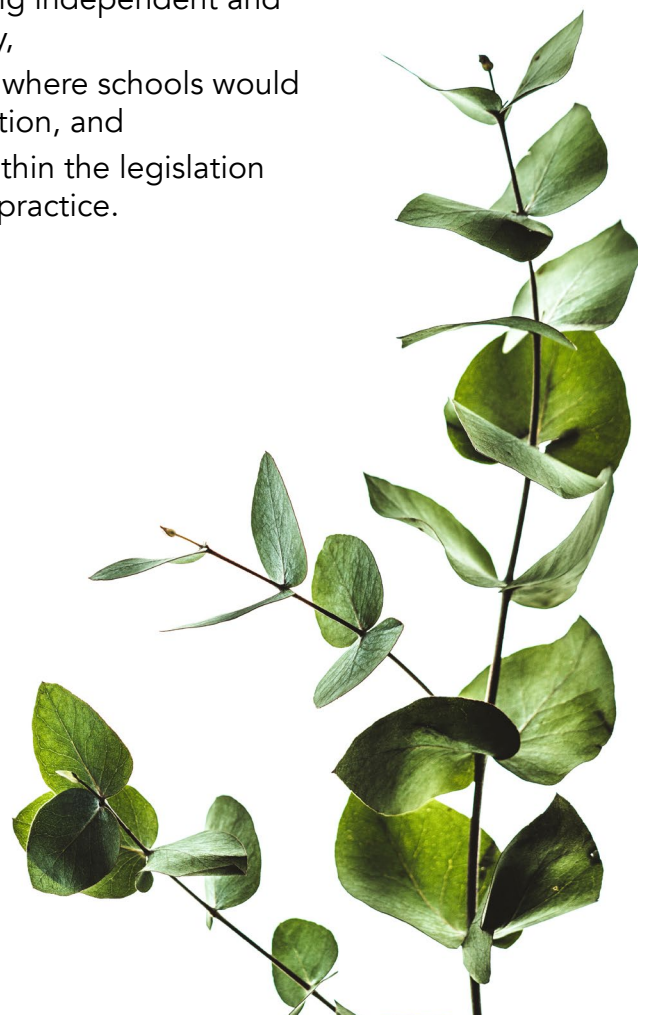
- highlighted current factors affecting independent and faith-based schools in our community,
- provided examples and scenarios where schools would benefit from adaptations to this legislation, and
- identified terms and definitions within the legislation that prove problematic in real-world practice.

Thank you for your time and consideration.

**Murray Norman**

CEO Better Balanced Futures  
Co-chair Faith NSW

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## OVERVIEW:

# SOME OF CURRENT FACTORS AFFECTING INDEPENDENT AND FAITH-BASED SCHOOL OPERATIONS

- ✓ **GROWTH IN AUSTRALIA'S RELIGIOUS DIVERSITY**
- ✓ **INCREASED DEMAND FOR FAITH-BASED SCHOOLING**
- ✓ **INCREASED NEED FOR SOCIAL COHESION IN MULTICULTURAL AUSTRALIA**
- ✓ **CHALLENGING ECONOMIC CLIMATE**



## A SNAPSHOT: MULTIFAITH AND MULTICULTURAL AUSTRALIA

(SOURCES: ABS Census, 2016-2022; McCrindle 2020-2022.)

### GROWTH IN MIGRANT POPULATIONS

Since 2016, Australia has seen the largest migration population growth in communities from East, South and Southeast Asia: India 217,963; Nepal 67,752; Philippines 61,506; China 40,063; Vietnam 38,642.

### GROWTH IN AUSTRALIA'S RELIGIOUS DIVERSITY

The proportion of Australians affiliated with religions other than Christianity is growing: 1991: 3%, 2011: 7%, 2021: 10%

#### **Australia's Religious affiliation in 2021:**

Christianity 44%  
Islam 3.2%  
Hinduism 2.7%  
Buddhism 2.4%  
Sikhism 1%  
Judaism 0.4%  
Other religious groups 0.5%  
No religion 39%  
Not stated 7%

#### **Growing Religious Diversity (increases since 1991):**

Hinduism: 1592%  
Islam: 555%  
Buddhism: 450%  
Total religions other than Christianity: 578%  
Total population: 51%

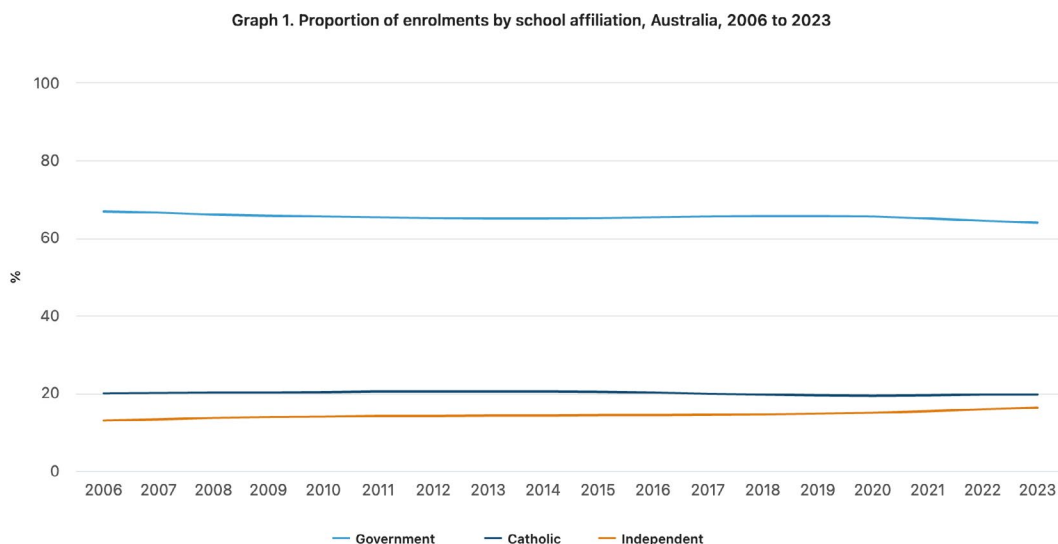
### NEED FOR INVESTMENT INTO NEW AND DIVERSE FAITH-BASED SCHOOLS

The substantial increases in religious diversity over the last two decades demonstrate a need for increased diversity amongst our faith-based schools, with religions such as Islam and Hinduism seeking to establish their own independent schools. This is, and will be, an enormous undertaking for communities that represent relatively small sections of the overall population, as they simultaneously aim to build other community initiatives to support their culture and beliefs, and are limited in resources compared to other more established or larger sections of society.

# INCREASED DEMAND FOR FAITH-BASED SCHOOLING

Graph 1. Percentage proportion of enrolments by school affiliation, Australia, 2006 to 2023

	Government	Catholic	Independent
2006	66.9	20	13
2007	66.6	20.1	13.3
2008	66.1	20.2	13.7
2009	65.8	20.2	13.9
2010	65.6	20.3	14
2011	65.4	20.5	14.2
2012	65.2	20.5	14.2
2013	65.1	20.5	14.3
2014	65.1	20.5	14.3
2015	65.2	20.4	14.4
2016	65.4	20.2	14.4
2017	65.6	19.9	14.5
2018	65.7	19.7	14.6
2019	65.7	19.5	14.8
2020	65.6	19.4	15
2021	65.1	19.5	15.4
2022	64.5	19.7	15.9
2023	64	19.7	16.3



## INDEPENDENT AND FAITH-BASED EDUCATION – A CONSISTENTLY GROWING CHOICE FOR AUSTRALIAN FAMILIES FOR ALMOST TWO DECADES

As a trend for almost two decades now, Australian parents are increasingly choosing non-government schools as the source of education for their children – the vast majority of which (over 96%) is faith-based education.

There is therefore a growing and ongoing need for expansion of these schools, capital expenditure and significant funding to support this expansion.

(SOURCE: ABS, 2023; Independent Schools Australia, 2023)

# INCREASED NEED FOR SOCIAL COHESION IN MULTICULTURAL AUSTRALIA

## SCHOOLS PLAY A VITAL ROLE IN FOSTERING UNITY, TOLERANCE AND ACCEPTANCE AMIDST BOTH FAITH AND CULTURAL DIVERSITY IN OUR COMMUNITIES.

As the most multicultural and multifaith nation on earth – and increasingly so – Australia therefore has an enormous need for social cohesion. Education is a vital element in developing social cohesion, tolerance, and acceptance within diversity in our young people, and needs to be both built and maintained within our education system. Education is well-researched to also provide strong counter measures for religious bullying and vilification, which is on the rise within our multicultural and multi-faith society.

### BUILDING SOCIAL COHESION

(SOURCES: Research conducted by McCrindle, 2022; Christian Schools Australia, 2022.)

- 74% of Independent school parents believe that their child's school is highly intentional in promoting acceptance, respect and inclusivity.
- More than 80% of Independent school parents believe their child's school is extremely/very intentional in developing positive characteristics and values, such as honesty, integrity, responsibility, respect, kindness and compassion.
- 84% of parents from Independent schools value the cultural diversity of their child's school.
- 74% of Independent school parents credit their schools as being extremely or very intentional in developing acceptance, respect and inclusivity among their students.

### MULTICULTURAL DATA – CAPITAL CITIES

(SOURCES: ABS Census, 2016-2022; McCrindle 2020-2022.)

- In 2021, 28% of Australians were born overseas (grown from 22% in 2006).
- This is much higher in many of our capital cities: 39% in Sydney, and 36% in both Melbourne and Perth.
- 50% of NSW residents have at least one parents born overseas (Aus: 48%).
- 22.3% of Australians use a non-English language at home, however in the Sydney CBD, this figure is much higher, at 61%.

## RELIGIOUS BULLYING & VILIFICATION

Gross & Rutland (2021) found that young people report having felt teased or made fun of at school because of their religion or how they practice their faith.

McCrinkle, 2022 found the following:

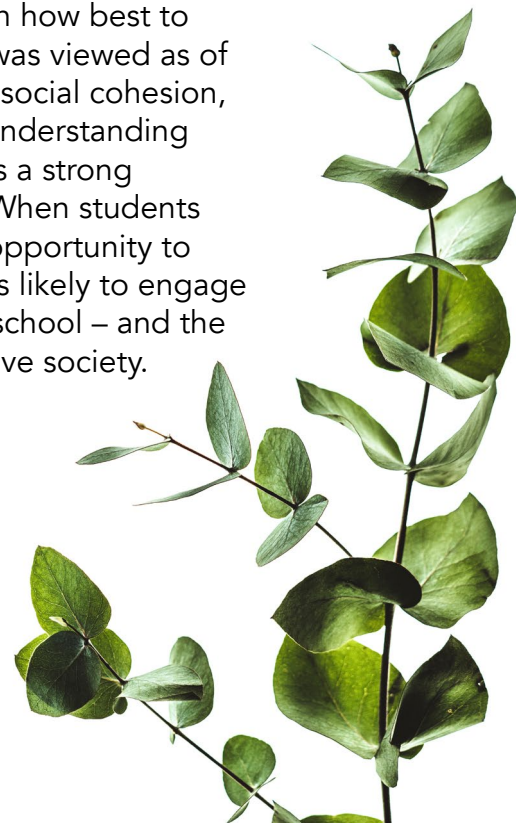
- 75% of Australians consider prejudice against others to be negatively impacting Australian society today.
- 74% of Australians believe racism is negatively impacting Australian society today.
- 24% of Australians have experienced discrimination because of their religion or religious views.

**McCrinkle, 2022 also found that the problem is becoming worse, and is a much larger threat to our younger generations:**

Younger residents are more likely to face religious discrimination (Gen Z 50%, Gen Y 47%, compared to Baby Boomers 34% and Builders 38%), whilst minority religions are also almost twice as likely to experience discrimination.

## RESEARCH WITH INTERNATIONAL EXPERTS INTO GENOCIDE – LEARNINGS FOR PROMOTING SOCIAL COHESION IN AUSTRALIA

In discussions with Dr Navras Aafreedi in India, and other colleagues internationally, it was intriguing to hear their perspective on how best to promote social cohesion in extreme situations. Education was viewed as of paramount importance – and when it comes to promoting social cohesion, these experts recommend building curriculum around an understanding of other's religion, culture, customs, and festivals, as well as a strong understanding of someone's own beliefs and worldviews. When students gain a greater understanding of others', together with an opportunity to engage with their own beliefs and worldviews, they are less likely to engage with discriminatory thoughts and behaviours. Instead, the school – and the wider community – will enjoy the benefits of a more cohesive society.



## CHALLENGING ECONOMIC CLIMATE

- **LIMITED ABILITY TO RAISE SCHOOL FEES WITHOUT PLACING STRESS ON FAMILIES.**
- **NEED FOR SCHOOLS TO DEVELOP INNOVATIVE FUNDING APPROACHES.**

In the recent and current economic climate, schools are experiencing the same price increases felt within the rest of the economy. However, there is still a strong demand for growth – schools need to expand, and new schools need to be started. This creates an enormous demand for capital funding, and a need for greater flexibility when it comes to innovative funding initiatives.

## TERMS AND DEFINITIONS WITHIN SECTION 83C THAT CAN BE PROBLEMATIC

In our discussions and consultation with independent schools and faith communities, and in light of the societal needs raised within this document, we would like to present that the following terms within 83C have been found to be potentially problematic in practice, and would recommend that they be considered for adaption and/or clarification as part of this review:

- Any purpose other than the operation of the school.
- Operates for profit.
- Market value.



## SUMMARY OF POSITION:

Considering these societal factors, and the terms and definitions currently legislated within Section 83C, we would like to support and represent schooling across the independent and faith-based sectors of the community by recommending a need for further clarification, understanding, definition, extension, allowance (and in places, leniency) for schools within the terms of the Section 83C Education Act legislation, with regards to:

- *school operations (and the approved activities included within that term),*
- *extra-curricular activities that are community-specific and focus on civic social cohesion,*
- *schools providing help to other schools,*
- *market review of payments, and*
- *innovative approaches to non-government sources of school funding*

**Our aim is to support the pursuit of higher levels of quality education for the young people within the communities of NSW. The remainder of this document provides further discussion and example of these points.**





# SCHOOL OPERATIONS:

## Community-specific extra-curricular activities

We recommend that schools have freedom and allowance to pursue and invest funding into providing diverse extra-curricular activities that are appropriate and beneficial to the school's own community, and the community within which it is sited – and that these activities are considered to be a valid part of the school's 'operations' with reference to Section 83C of the Education Act.

These activities would be described as programs, cultural rituals, events, and excursions that would be reasonably expected by the community – even if they are not specifically identified within the curriculum. These extra-curricular activities would be broadly defined as being aligned with the ethos, beliefs, mission and purpose of the school and community. Special facilities may be required to be developed to enable these extra-curricular activities – and these facilities might be shared with a community for other purposes.

### *Examples (some of which already readily occur) would include:*

- **Anzac Day**
- **Easter**
- **Christmas**
- **Indigenous Australian cultural ceremonies and activities**
- **Ramadan**
- **Diwali**
- **Auxiliary activities that would be reasonably expected, in line with the beliefs of the community.**
- **Other religious and/or cultural ceremonies and practices**
- **Morning yoga in Hindu schools.**
- **Training in how to decorate Hindu deities.**

# SCHOOL OPERATIONS:

## Focus on, and investment in, social cohesion

We recommend, within a reviewed version of 83C, that schools are able to pursue and invest in social cohesion programs, specifically designed and integrated for their own unique communities, as part of the schools 'operations'.

*"Explicit education delivered to young people is key to building individual capacity and challenging the personal and cultural attitudes that lead to intolerance. These initiatives are focused on teaching young people to value diversity and develop interfaith understanding. They will also equip them with skills and strategies to address intolerance when they experience it, or when they see it happening to others."*  
[Australian Government Department of Education, (1)]

It is well-accepted (1) and researched (2) that education is a primary strategy for increasing social cohesion, and it is therefore vital that our schools (and their governing legislation) allow for investing into civic social cohesion, beyond the boundaries of curriculum.

These programs, associated with meeting the aims of social cohesion within an appropriate community and faith-based setting, would be best designed and supported through partnerships with faith communities and other appropriate sections of the community.



# SCHOOLS HELPING SCHOOLS:

## PROVISION OF PROFESSIONAL SERVICES TO OTHER SCHOOLS

In the face of increased demand and pressure upon the schools within our community, there are many situations where smaller or developing schools could greatly benefit with help from other more established and experienced schools and their leadership teams.

We recommend that a revised 83C allows for schools to have the ability to provide professional and experienced school oversight and/or administrative services, for a fee, without being considered as 'operating for profit' or engaging in activities that are 'outside school operations'.

A fair market payment for these services is appropriate – and for the school receiving the aid, this situation is of great benefit, as they glean from an experienced team without having to engage the full expense of sourcing, hiring, and retaining their own individuals with equivalent experience.

Rather than situations where schools are helping other schools being viewed as 'operating for profit', we recommend that these scenarios be seen and controlled as a positive measure of helping other schools improve their education offering. Many independent schools don't yet have the resources (human and financial) to provide that same high level of oversight and development that these developed schools can provide, and the net result could be an overall lifting of the education environment and standard within NSW. It is reductive to view this as merely 'operating for profit'.

In terms of the type of support and help many schools can benefit from, schools should be able to support other schools with administrative and leadership support, access to library, sporting facilities and other resources, and provision of third-party services (e.g.: accounting, curriculum program development, and professional advice and services). The school that offers this aid should be able to charge a fair market value rate for the help it is providing (and in many cases, resourcing), without being potentially penalised by 83C as 'operating for profit'.

***See overleaf for two case studies:***

## **CASE STUDY EXAMPLE 1:**

A larger school group, with more expertise and experience, provides accounting and IT services to a smaller school that is struggling to afford professional services at the level required, and source an appropriately experienced staff member. The larger school employs additional staff to cope with the increased workload (both within their own expanding school as well as the school they are helping) and charges the smaller school a fee for professional services. The net result is that the smaller school has an increased level of efficiency, beyond what their own budget could achieve, and the larger school has been able to use these funds to support their own needs for additional staffing. Both schools, overall, have improved in their educational offering to the community.

## **CASE STUDY EXAMPLE 2:**

A Hindu school is seeking to establish itself in the challenging economic climate in Sydney. An established Christian school offers expert help to the Hindu school through the ongoing phases of setup, operation, and growth, helping to develop a school with their expertise and intellectual capital. These services would be provided for a fee – but at a rate far less than the Hindu school engaging its own set of full-time experts. The Hindu school receives much-needed help to establish their initial school in the community, at a higher level than if they pursued it on their own. The Christian school gains an additional source of funding, allowing them to improve their own standards of excellence and education within their school. The net benefit to the community is one of improved quality of education, social cohesion, and shared expertise.

# INNOVATIVE SCHOOL FUNDING

## USE AND HIRING OF SCHOOL FACILITIES

We recommend that the review of 83C clearly allows for schools to be able to hire their auditoriums and facilities to the community, at a fair market value, without this being construed as 'operating for profit'.

## PARTNERING WITH THE COMMUNITY TO BUILD FACILITIES AND INFRASTRUCTURE

We recommend that the review of 83C provides clarity around community partnerships. Community members and groups should be able to partner with schools to build facilities, perhaps in joint ventures, without it being seen as 'being used for activities that are not associated with being a school' or schools engaging in 'operating for profit'.

## PURCHASING ASSETS / LAND / ENTITIES TO ASSIST THE SCHOOL

We strongly support the government's legislation providing oversight and governance surrounding the provision of funding to a school. All funding needs to be dispersed in accordance with the manner in which it was granted, respecting the condition/s of the funding and the source from which a school receives it.

In light of this, and the need for independent schools to provide the bulk of their own capital expenditure funding, we would recommend clarity and extension of the 83C guidance to allow for greater community investment in schools. If a school receives community funding for property, buildings and infrastructure that could also be of benefit to the community, it is reasonable to expect that the community would have access to those facilities, and that the school could receive payment for the provision of those facilities to the community, without being considered as 'operating for profit'.

We believe that an adaption and extension of 83C could result in encouraging communities to co-invest in securing land, buildings, and infrastructure for schools – and that this would be of great benefit to the community as a whole, lifting the levels of education in NSW through strong community partnerships.

# ATTRACT AND RETAIN TOP QUALITY STAFF

In his second reading (3), Minister Piccoli stated:

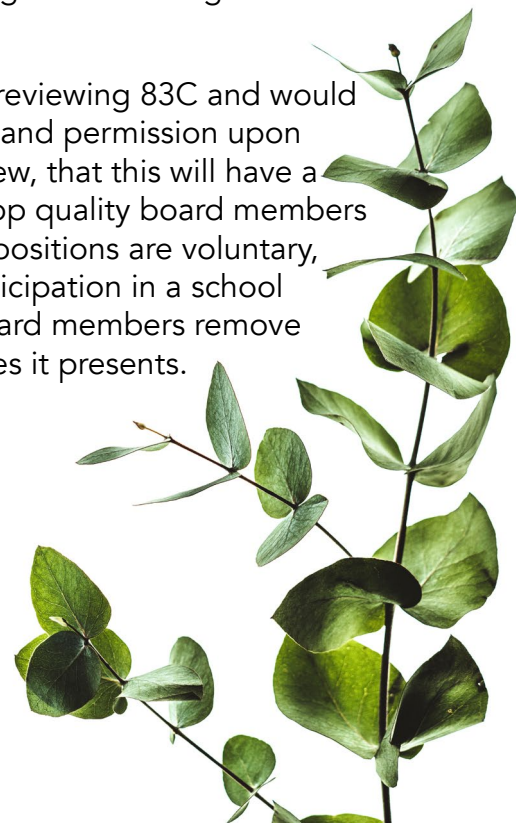
“The Government will not be taking a heavy-handed approach to determining what is market value. For example, the Government will not be determining salaries within a school. It is up to the school governing body to determine the market in which the school operates and to set salaries according to that assessment. As with all other goods and services, salaries will only be considered as a for-profit issue if they are clearly beyond a reasonable level” (3)

Schools are complex environments, and they need the ability to both attract and retain good staff. We recommend, in line with Minister Piccoli’s expressed intentions above, that there is consideration to the diversity of tasks that many staff undertake in independent schools, when compared with other educational and business environments, and that this is a considered and documented factor when conducting market review and fair market value evaluations of payments made, through the Section 83C legislation.

# ATTRACT AND RETAIN TOP QUALITY BOARD MEMBERS

Schools are large, complex and highly regulated organisations, with a need for highly skilled and experienced board members to provide guidance and governance in accordance with legislation and mission.

We applaud and support the government’s initiative in reviewing 83C and would like to suggest that by providing greater clarity, expansion and permission upon the specific points we, and others, have raised for this review, that this will have a positive effect on the future recruitment and retention of top quality board members for schools. It is important to remind ourselves that board positions are voluntary, and so when legislation is unclear/overly restrictive, or participation in a school board is particularly onerous, we potentially see quality board members remove themselves from the environment because of the challenges it presents.



## **REFERENCES:**

(1) Zebun Nisa Khan. Role of Education in Building Social Cohesion. International Journal of Secondary Education. Vol. 4, No. 2, 2016, pp. 23-26. doi: 10.11648/j.ijsedu.20160402.12

(2) Australian Government, Department of Education website: <https://www.education.gov.au/australian-curriculum/support-social-cohesion>

(3) The Hon. Adrian Piccoli, Second Reading Speech, 15 October 2014

Aafreedi, Dr Navras J.: Assistant Professor, Department of History, Presidency University, Kolkata, India. Research Fellow, Institute for the Study of Global Antisemitism and Policy (ISGAP), New York, USA.

Australian Bureau of Statistics, Schools (2006-2023)

Christian Schools Australia website: [https://www.csa.edu.au/CSA/CSA/Resources-and-Media/Briefings/Articles/2022/07-July/Christian\\_Schools\\_Remain\\_Fastest\\_Growing\\_Sector.aspx](https://www.csa.edu.au/CSA/CSA/Resources-and-Media/Briefings/Articles/2022/07-July/Christian_Schools_Remain_Fastest_Growing_Sector.aspx)

Gross & Rutland, 2021. "Special Religious Education in Australia and its Value to Contemporary Society". Gross & Rutland's research spans over a decade, looking at six major faith groups (Christianity, Islam, Buddhism, Hinduism, Judaism and Baha'i).

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McCrindle and Independent Schools Australia, The Social Contribution of Independent Schools in Australia, 2022