

Summary Offences (Protection of the Australian Flag) Amendment Bill 2026

Statement of Compatibility

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019*, I, Robbie Katter, Member for Traeger, make this statement of compatibility with respect to the *Summary Offences (Protection of the Australian Flag) Amendment Bill 2026* (the Bill).

In my opinion, the Bill is compatible with the human rights protected by the *Human Rights Act 2019*, although it limits some rights. Those limitations are reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

Overview of the Bill

The Bill amends the *Summary Offences Act 2005* by inserting a new division creating an offence for burning an Australian flag in a public place in a way that a reasonable person would consider likely to provoke public disorder, intimidate any person, or cause significant offence to members of the community.

The Bill also defines “Australian flag” for the purposes of the division, states the objects of the division, and identifies matters to which regard may be had in assessing whether the conduct was carried out in the proscribed manner.

Human Rights Issues

The human rights engaged by the Bill include freedom of expression under section 21 of the *Human Rights Act 2019* and, depending on the circumstances, peaceful assembly and freedom of association under section 22 of that Act.

Burning a flag may in some circumstances be expressive conduct. To the extent that the Bill regulates that conduct, it limits freedom of expression. Where such conduct occurs in the course of a public gathering or demonstration, the Bill may also indirectly limit peaceful assembly.

Those limitations are, however, narrow in scope. The Bill does not prohibit criticism of the nation, political protest generally, or the peaceful communication of ideas. Nor does it prohibit all dealings with the Australian flag. The offence is confined to the burning of an Australian flag in a public place, and only where the conduct is carried out in a way that a reasonable person would consider likely to provoke public disorder, intimidate any person, or cause significant offence to members of the community.

The purpose of the limitation is to protect public order and community safety and to prevent conduct involving a national symbol from being used as an instrument of intimidation, provocation or disorder. The provision is directed to the harmful manner and context of the conduct, rather than to the mere holding of a view or participation in public debate.

The Bill adopts an objective standard and includes contextual guidance in section 10H(2), which assists in confining the operation of the offence. In that way, the limitation is proportionate to the purpose sought to be achieved.

For those reasons, any limitation on human rights arising from the Bill is reasonable and demonstrably justified under section 13 of the *Human Rights Act 2019*.

Conclusion

In my opinion, the *Summary Offences (Protection of the Australian Flag) Amendment Bill 2026* is compatible with human rights because, although it limits human rights, those limitations are reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

Robbie Katter
Member for Traeger