Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026

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Introduction

Legal Aid Queensland (LAQ) welcomes the opportunity to make submissions on the Consultation Draft of the *Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026* ("the Bill").

LAQ provides input into State and Commonwealth policy development and law reform processes to advance its organisational objectives. Under the *Legal Aid Queensland Act 1997,* LAQ is established for the purpose of "giving legal assistance to financially disadvantaged persons in the most effective, efficient and economical way" and is required to give this "legal assistance at a reasonable cost to the community and on an equitable basis throughout the State". Consistent with these statutory objects, LAQ contributes to government policy processes about proposals that will impact on the cost-effectiveness of LAQ's services, either directly or consequentially through impacts on the efficient functioning of the justice system.

LAQ always seeks to offer policy input that is constructive and is based on the extensive experience of LAQ's lawyers in the day-to-day application of the law in courts and tribunals. LAQ believes that this experience provides LAQ with valuable knowledge and insights into the operation of the justice system that can contribute to government policy development. LAQ also endeavours to offer policy options that may enable government to pursue policy objectives in the most effective and efficient way.

This submission calls upon the knowledge and experience of LAQ's Criminal Law Services (CLS), which is the largest criminal law legal practice in Queensland and provides advice and representation across the full range of criminal law offences. It also draws on the knowledge and experience of the Public Defender and counsel in the Public Defenders Chambers. CLS lawyers and counsel in the Public Defenders Chambers possess valuable knowledge and insight into potential impacts of this policy on criminal legal practice and the practical implications for defendants.

This submission also draws upon the experience of LAQ's Civil Justice Services lawyers in our Human Rights, Anti-Discrimination and Employment Unit (**HRADE**), who regularly provide specialist advice and representation to complainants in discrimination, sexual harassment and vilification matters under both State and Commonwealth legislation.

Submissions

LAQ recognises the tragedy that occurred at Bondi Beach on 14 December 2025, noted in the Explanatory Notes as the driving force behind the creation of this Bill. LAQ fully understands the objective of preventing a similar atrocity from occurring in Queensland and appreciates the need to reduce the incidence of antisemitism.

However, LAQ respectfully expresses concern at attempting to achieve these policy objectives by expanding existing laws or creating novel criminal offences. There is no evidence that the creation of the proposed offences will reduce antisemitism or improve public safety.

LAQ emphasises that the criminal law is a poor tool to improve social cohesion, and that rushing through such significant changes to the criminal law will likely have significant unintended consequences. LAQ notes also the truncated timeframe provided for responding to the draft Bill, and the brevity of consultation undertaken.

LAQ very respectfully urges that Parliament instead refer the matter to the Queensland Law Reform Commission, or to wait for the findings of the Royal Commission into Antisemitism and Social Cohesion, before acting.

LAQ also respectfully suggests that the Committee consider the Bill's consistency with the laws introduced at the Commonwealth level. In this vein, LAQ supports the Law Council of Australia's submission in relation to the *Commonwealth Combatting Antisemitism, Hate and Extremism Bill 2026 (Cth)*, which enunciates many considerations that are also relevant to this Bill.

Finally, LAQ respectfully urges the Committee to consider the paused anti-discrimination and anti-vilification reforms developed over a four-year period, which were driven by a community campaign initiated by the Cohesive Communities coalition in 2020. These reforms contain civil law reform which is, in LAQ's view, better placed to achieve the objectives of the current Bill. LAQ refers the Committee, in this regard, to LAQ's substantial submissions in relation to reforms to anti-discrimination legislation.

Notwithstanding these recommendations, LAQ highlights the following concerns with particular provisions of the Bill.

Amendments to the *Criminal Code* (Qld)

The proposed amendments to the *Criminal Code* regarding prohibited expressions and symbols involve significant incursions on the freedom of thought, conscience, religion and belief, and freedom of expression from ss 20 and 21 of the *Human Rights Act 2019* (Qld) (*HRA*). In LAQ's respectful opinion, the proposed amendments also infringe on the right to peaceful assembly contained in s22(1) of the *HRA*, and on the right to freedom of association protected by s22(2) of the *HRA*. LAQ notes also that the right to peaceful assembly is protected under article 21 of the International Covenant on Civil and Political Rights.

The Bill introduces a new offence for the public recitation, public distribution, publication or public display of a prohibited expression. A prohibited expression is prescribed by regulation, with the Minister having to be satisfied it is regularly used to incite discrimination, hostility or violence towards a relevant group. The offence applies where the conduct could reasonably be expected to make a member of the public feel menaced, harassed or offended, and the defendant does not have a reasonable excuse.

It is concerning, in LAQ's respectful view, that any expression can incur criminal sanction (including imprisonment) by mere designation in regulation, and without any built-in mechanism for significant oversight or review. While LAQ notes the requirement for Ministerial consultation with the Crime and Corruption Commission, the Human Rights Commissioner and the Police Commissioner prior to prohibiting particular expressions, LAQ remains concerned that this process is not subject to any public scrutiny, oversight or review in a unicameral parliament.

LAQ respectfully suggests that the list of symbols or expressions should be contained within a schedule to the relevant Act. Any amendments to the list of prohibited symbols and phrases would therefore be subject to consultation with the public prior to becoming law. This would ensure that the prohibitions reflect prevailing community standards, require consideration of human rights in relation to each additional 'expression', and provide an opportunity for the public to make submissions on the proposed symbol or expression that

the Minister seeks to prohibit. It would also ensure that the full context of the proposed prohibited symbol or expression is considered before a decision about regulation is made.[1]

The proposed offences involve no proof of a mental element, such as intention to harass or menace. LAQ observes that the provision contains no requirement for the *causation* of offence to another; rather, it requires merely an *expectation* of offence. The legislation seeks to criminalise statements made without any consequential impact. Doing so is a significant intrusion into freedom of speech. In LAQ's respectful opinion, statements made in private but with a capacity to be heard in public (without them actually being heard) extends the proposed offence too far and invites trespass into a potentially private statement, made public not by intent but by consequence of acoustics.

LAQ also recognises the expansion of criminalised expressions to ones that 'nearly resemble' those prescribed by regulation. What constitutes 'nearly resembles' is open to a wide interpretation especially with the use of the epithet 'likely to be confused'. Contests will inevitably arise as to a change in only one or two words amongst a broader expression, without the prosecution being required to demonstrate the broader context but instead leaving it to an accused to prove their innocence. Further, whether something 'nearly resembles' and whether it is 'likely to be confused' with a prescribed expression is not defined and as such will rely on the collective assessment by lay persons, considering the matter in a vacuum. Not only will much turn on context, so too will contest arise by reference to an alleged perpetrator's education and comprehension skills.

In LAQ's view, the provision risks criminalising a statement which, while made without an intention to be offensive, is nevertheless interpreted by others to be likely to be confused with a prescribed expression. The absence of a mental element as to the alleged perpetrator's intent is therefore concerning, especially where the expression might be considered out of its proper context. So too is the absence of an objective test as to what would fall within the rubric of 'nearly resembles' and 'likely to be confused'. The absence of such a test would see different tribunals of fact applying different standards.

It is further observed that the provisions are apt to require an erosion of the right to silence and to compel an accused person to prove their innocence. That is, where a statement is made that might be thought to offend someone should they hear it, an accused person will be required to prove that the statement was otherwise authorised. It is trite to observe that the vast majority of statements which may be said to fall within these provisions will no doubt fall within the 'reasonable excuses' made available. Thus, the provisions have a real and appreciable capacity to be redundant and if applied, to infringe upon a time honoured and embedded principle of criminal justice.

In respect of s 52D of the *Criminal Code*, LAQ submits that there is no basis in evidence to cause the maximum penalty to quadruple from the current 6 months imprisonment to the proposed 2 years imprisonment. There is similarly no basis for a maximum penalty as high as 2 years imprisonment for the offence under the proposed s 52DA. Evidence consistently shows that increases in maximum penalty typically do not deter persons from committing crime. Such high penalties are concerning given these new offences can be committed without proof of any mental element of the offender, and without any proof any member of the public member becomes aware of the publication. The proposed penalties increase the risk of over-incarceration of particularly disadvantaged members of society, including those with

[1] For example, the Law Council of Australia, in its submission on the correlating Commonwealth Bill, notes that the ISIS flag includes the Arabic text of the Shahada, which is a profession of faith entailed by the first of the five pillars of Islam, upon a black background. This means that the text on the ISIS flag is not a unique symbol.

intellectual impairment, who may display a prohibited symbol without understanding that a member of the public may be harassed or offended.

LAQ observes that the proposed amendments fail to deal with what may fall within 'religion', 'religious ceremony', and 'place of religious worship'. As such, those phrases will be left to interpretation, and much may turn upon the categorisation of an act or group by individuals without oversight. Consequently, LAQ observes that ss 206 and 206A may open up to allow persons to misuse them by seeking to invoke an act or group as 'religious' when in truth they are not. This will undermine the integrity of the legislation and see contests as to the validity of the act or group rather than focusing on the intended behaviour sought to be criminalised. As such, it is LAQ's suggestion that the term 'religious' should be defined.

LAQ expresses concern at the width of the new offence under s 206A of the *Criminal Code*, particularly given it attracts a maximum penalty of 3 years imprisonment. The proposed offence does not require proof of any mental element, even though it logically would include an element of 'intending' to intimidate or obstruct, or at least the element of 'wilfully'. 'Obstruct' is a wide term and includes an action that might, inadvertently, cause a minor hindrance to another. For example, if an unhoused person falls asleep outside the front of a church and that requires religious adherents to go around them in order to enter the church, that may involve the commission of this offence. LAQ is also unaware of any reports of conduct in Queensland that illustrates a need for creation of this offence.

LAQ expresses concern with significantly amending s 207 to criminalise, for the first time, wilfully disturbing places of worship. LAQ does not consider this expansion of criminal law is necessary to deal with disturbances when places of worship can already invoke their own process to prohibit persons from attendance and can already make complaints of trespass or threats of violence to police. Of concern is that 'disturb' has a wide meaning and could be easily satisfied, even by a religious adherent of that particular religious location. For example, if a church member goes to their regular church service, and the preacher that day unexpectedly conveys hatred or denigration of others, and that church member stands up and deliberately interrupts the preaching and respectfully disagrees with that preaching, they have likely 'disturbed' the church service and committed a criminal offence punishable by 6 months imprisonment. In addition to restricting freedom of speech, this offence can thus curtail rather than promote freedom of religion.

The amendments to s 540 of the *Criminal Code* unnecessarily widens the offence. Section 540, as it currently exists, is plainly directed to explosive devices. There are already numerous offences for possessing weapons, or committing offences with weapons, which are sufficient for community protection against offensive weapons and instruments. This amendment will see the section used for offences not intended to be caught by the proposed amendments. For example, it would apply to a person who possessed a knife for the purpose of committing a robbery. It is to be observed that such acts are already captured when the substantive offence is otherwise carried out. The amendment will serve only to add additional offences unnecessarily or otherwise criminalise an intention where the substantive offence is not carried out. To criminalise a thought process is, in LAQ's respectful submission, a step too far.

LAQ does not support the insertion of s 540A into the Code and suggests there is no evidence that this offence is needed. The offence penalises any conduct to prepare or plan for an offence that need only be 'likely' to cause grievous bodily harm to one other person. It thus covers instances where one person may be planning to commit unsophisticated armed robbery, or to punch someone else. It is already an offence to attempt such offences, and the law of attempt has adequately dealt with criminalising such conduct for many years. LAQ notes also that this provision is broader than, and therefore inconsistent with, the correlating Commonwealth Criminal Code provision (s 101(6)).

Amendments to the *Police Powers and Responsibilities Act 2000*

LAQ expresses concern at the amendments to the *Police Powers and Responsibilities Act 2000* (Qld) (*PPRA*). The amendments to s 30 of the *PPRA* will permit warrantless searches of persons and vehicles if a person is suspected of saying a prohibited expression in the way set out in the proposed s 52DA of the Code. It is difficult to understand why urgent, warrantless searches are required if police suspect a person of saying something offensive (as opposed to displaying an offensive symbol, evidence of which, such as an offensive flag, might be found in the vehicle). This significant expansion of police power is unjustified. In LAQ's respectful opinion, it will likely have a disproportionate impact on minority groups who already experience significant disadvantage and increase over-policing of those groups, particularly First Nations and racial minority groups. LAQ respectfully recommends the deletion of clauses 19 and 20 from the Bill.

It is also unclear, in LAQ's respectful opinion, how these expanded search powers in the new prescribed circumstances will be implemented. LAQ notes the risk of ambiguous expanded police search powers was discussed in a recent case in Victoria, which considered whether the impact of enhanced police search and un-masking powers properly considered the right to privacy. *Browne v Assistant Commissioner of Police, North West Metro Region* [2026] FCA 15 (23 January 2026) involved a legal and constitutional challenge in the Federal Court against the Victorian Assistant Police Commissioner's decision to declare the entire Melbourne CBD and surrounds as a "designated area" for 6 months. The Designation expanded Victoria Police's power to stop and search anyone in the Melbourne CBD for no reason or order people to leave the area if they refuse to remove a face covering. The Court ultimately found this designation to be unlawful under the *Charter of Human Rights and Responsibilities Act 2006* (Vic). While it is a different circumstance to what is intended with the amendments of this Bill, expanding search powers to the prescribed circumstance without clear drafting could face similar human rights law implications.

LAQ is concerned by the amendments to ss 229, 230, 237 and 258 of the *PRRA* (clauses 23 to 26) as inappropriately expanding the power of police officers engaged in authorised operations. The amendments will allow, for the first time, controlled operations to occur for the purpose of frustrating the commission of a 'relevant offence' and will allow officers to engage in conduct to 'frustrate the commission of a relevant offence not mentioned in the authority'. 'Relevant' offence will now be defined in s 229 to include any three-year imprisonment offence. There is no apparent justification for controlled operations, and the exceptional powers granted to law enforcement officers to *engage in* otherwise criminal conduct, to merely prevent three-year offences like common assault.

The proposed amendments seek to give authority to police and their agents to commit a wide and exceptional array of offences in order to frustrate the commission of an offence. Such an ambit power is exceptional and perplexing. That the amendments authorise the commission of offences in order to frustrate an offence which might be committed (including even if it is only in a planning phase) is unnecessary where legitimate investigation strategies are sufficient.

LAQ notes that the lowering of the threshold for controlled operations and activities and to obtain a surveillance warrant has the potential to significantly and disproportionately limit the

right to privacy (s 25 *HRA*), the right to equality (s 15 *HRA*) and certain rights in criminal proceedings (s 32 *HRA*[2]).

In LAQ's respectful opinion, the provisions should remain as they are and permit the commission of offences by police or their agents in only exceptional circumstances to obtain evidence of an offence having actually been committed, and that those offences authorised are limited, rather than expanded. Alternatively, to address proportionality testing under the *HRA*, the process of determining controlled operations for frustrating criminal activity should clearly outline the human rights considerations and detail whether there are any less restrictive and reasonably available ways to achieve the purpose of disrupting or preventing the relevant criminal activity.

Amendments to the *Weapons Act 1990*

LAQ expresses concerns with the significant increases in maximum penalty to offences in ss 50, 50B, 61, 62, 63, 65, 69, 141Y, 141Z of the *Weapons Act*. LAQ observes there is no evidence that the penalties imposed by courts for such offences currently are inadequate. Research has shown time and time again that increasing the severity of penalties has minimal impact of the reduction of crime/general deterrence.[3] There is insufficient evidence that increasing the maximum penalties will meet the intention of the Bill. Section 65 imposes minimum mandatory penalties of actual imprisonment, and it is disappointing that despite reform to the section, these are being retained. It is well-established that minimum mandatory penalties inappropriately curtail judicial discretion and cause injustice in particular cases.

LAQ notes also that the proposed amendment to s 10 of the *Weapons Act*, restricting eligibility for weapons licences to Australian citizens who reside only in Queensland, limits the right to recognition and equality before the law contained in s 15 of the *HRA*. Weapons offences are, clearly, committed by Australian citizens as well as non-citizens; one of the assailants responsible for the atrocities committed during the Bondi terror attack was an Australian citizen. If the objective of the Bill is to prevent the misuse of firearms by terrorists and criminals, limiting only the rights of Queenslanders who are not Australian citizens to own weapons does not help to achieve that purpose. In LAQ's view, the proposed amendment is vulnerable to failing the proportionality analysis under the *HRA*.

Amendments to the *Youth Justice Act 1992* (prescribing additional offences as 'Adult Time, Adult Crime')

The Explanatory Memorandum notes that the proposed amendments to the *Youth Justice Act 1992* (*YJA*) may be considered to impact upon a child's rights and freedoms by providing potentially greater criminal sanctions for these offences than may otherwise have been imposed. However, LAQ respectfully disagrees that these amendments are justifiable as the proposed offences represent a particular risk to community safety and are limited to a small number of serious offences.

In LAQ's view, this is contrary to the protections of families and children under s 26 of the *HRA*, which provides that every child has the right, without discrimination, to the protection that is needed by the child and is in the child's best interests because of being a child. This provision risks the limitation not helping to achieve the purported purpose of the legislation.

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[2] Section 32(2)(k) of the *HRA* provides that a person charged with a criminal offence is entitled without discrimination to minimum guarantees including….." not to be compelled to testify against themselves or confess guilt".

[3] See State of Victoria, Sentencing Advisory Council, *Sentencing Matters: Does Imprisonment Deter? A Review of the Evidence* (April 2011), particularly at 14-15.

LAQ notes that section 32(2) of the *HRA* also provides that "a child charged with a criminal offence has the right to a procedure that takes account of the child's age and the desirability of promoting the child's rehabilitation."

It is unclear from the drafting of these amendments, whether the rebuttable presumption under s 11 of the *YJA* will apply to these offences as well. In the absence of specific amendments addressing this, section 48(1) of the *HRA* provides that all statutory provisions must, to the extent possible that is consistent with their purpose, be interpreted in a way that is compatible with human rights. In LAQ's respectful view, any provisions in the Bill which may affect the rights of children in criminal proceedings should be interpreted through the lens of s 32, particularly if they do not benefit from the rebuttable presumption of the *YJA*.

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