

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

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This submission addresses three principal aspects of the Bill:

1. The proposed expansion of criminalised expression - use of phrases;
2. The lowering of thresholds for covert policing powers; and
3. The firearms reforms and the importance of national policy alignment.

Criminalised Expression – Use of Phrases

The objective of combating antisemitism and extremist incitement is legitimate and important. However, the drafting approach raises concerns about legal certainty, proportionality, and unintended consequences.

Criminal offences attracting custodial penalties must be clear, precise, and predictable. The inclusion of "substantially similar expressions" introduces interpretive uncertainty. Liability may depend on whether an expression is deemed sufficiently similar to a prohibited phrase, requiring subjective assessment of wording, context, and intent. This risks inconsistent application and increases reliance on prosecutorial and judicial interpretation rather than clear statutory boundaries.

Uncertainty in criminal law may also produce a chilling effect on lawful political communication. Individuals and organisations may avoid robust public debate, protest, or commentary for fear that speech could later be characterised as prohibited or "substantially similar" to a prescribed expression. Even limited enforcement may influence behaviour where the scope of the offence is unclear.

Measures aimed at preventing incitement to violence should be narrowly tailored to that purpose. The focus should remain on intentional incitement of violence or serious harm, rather than broader categories of expression that risk capturing lawful speech. Greater precision would reduce the risk of unintended consequences while preserving the Bill's objective of addressing extremist advocacy.

Expansion of Controlled Operations and Surveillance Powers

The Bill lowers the offence threshold for controlled operations, controlled activities, and surveillance device warrants from offences carrying a maximum penalty of seven years imprisonment to those carrying three years imprisonment.

This amendment materially expands the class of offences for which covert and intrusive powers may be deployed. Controlled operations permit police to engage in conduct that would otherwise expose them to criminal liability, including deliberate deception. Surveillance device warrants authorise intrusion into private communications and activities.

Historically, the justification for these powers has rested on the seriousness of the offending under investigation. Lowering the threshold significantly broadens their potential application to a wider range of offences that, while not trivial, are not comparable in gravity to terrorism or organised crime. Obstructing Police would fall within this threshold.

The central issue is proportionality. Intrusive state powers should be calibrated to the seriousness of the conduct being investigated. Expanding eligibility from seven-year offences to three-year offences shifts that balance and risks normalising the use of exceptional powers in less serious contexts.

Firearms Reforms and National Consistency

These reforms broadly align with the objective of preventing firearm misuse and addressing emerging technological risks.

However, Queensland's position in relation to national firearms reduction initiatives warrants careful consideration. Since the Port Arthur reforms of 1996, firearms regulation in Australia has largely operated within a coordinated national framework. Consistency across jurisdictions has been a defining feature of that approach.

If the policy objective is to reduce firearm-related risk, enforcement measures should operate alongside reduction and prevention strategies at the national level. Divergence from coordinated national schemes may weaken the overall effectiveness of Australia's long-standing consensus-based approach to firearms control.

Conclusion

The objectives of combating antisemitism, preventing extremist violence, and reducing firearm misuse are legitimate and necessary. However, legislative responses to serious events must be carefully drafted to avoid unintended consequences.

Refining these provisions would strengthen the Bill and reduce the risk of broader impacts on lawful speech, privacy, and democratic safeguards.