Australian Government
Department of Home Affairs

Australian Government
Attorney-General's Department

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Inquiry into the Combatting Antisemitism, Hate and Extremism Bill 2026

Joint Attorney-General's Department and Department of Home Affairs Submission

Contents

Introduction

The Attorney-General's Department (AGD) and the Department of Home Affairs (Home Affairs) welcome the opportunity to provide a submission to the Parliamentary Joint Committee on Intelligence and Security's inquiry into the Combatting Antisemitism, Hate and Extremism Bill 2026 (the Bill).

Australia has witnessed an alarming rise in antisemitism, hatred and extremism in recent years. In response to the devastating antisemitic attack on Bondi beach on 14 December, the Commonwealth accelerated a comprehensive package of legislative reforms to combat antisemitism, hate and extremism and strengthen gun laws in Australia. The Bill would expand and strengthen Commonwealth criminal offences to address the spread of hatred and extremism, including antisemitism. The Bill also includes significant reforms to Australia's migration and firearms laws to improve community safety by:

- enabling the Minister for Home Affairs to refuse to grant, or to cancel a visa, on the basis of hate motivated conduct and offences relating to the spread of hatred and extremism
- establishing a National Gun Buyback Scheme
- enabling the use of Commonwealth intelligence for firearms licensing decisions,
- and strengthening importation controls on firearms.

The reforms would also respond to the recommendations relating to criminal law reform made by Australia's Special Envoy to Combat Antisemitism, and build on a range of legislative reforms that have been implemented to address hate motivated conduct, including the introduction of new offences for advocating or threatening force or violence, criminalising doxxing, banning Nazi salutes and hate symbols and the listing framework for state sponsors of terrorism.

Overview of the Bill

The Bill would contain five schedules of amendments:

- Schedule 1 contains amendments to legislation regarding criminal law

- Schedule 2 contains amendments to migration laws
- Schedule 3 contains customs amendments
- Schedule 4 contains amendments to firearms-related legislation, and
- Schedule 5 contains transitional rules.

Consultation

The Bill was jointly developed by AGD and the Department of Home Affairs and included extensive consultation with affected Commonwealth departments and portfolio agencies. In particular, the departments worked closely with the Australian Federal Police, Australian Security Intelligence Organisation, Australian Criminal Intelligence Commission and Commonwealth Department of Public Prosecutions to develop the reforms. The development of the Bill was also supported by targeted consultation with community groups prior to its referral to this Committee.

Explanation of amendments in each Schedule

Schedule 1

Part 1 - Aggravated offence for preachers and leaders

Part 1 of Schedule 1 of the Bill would introduce a new aggravated offence for religious or other leaders who provide religious instruction or pastoral care. The aggravated offence would apply if a person in this position advocates or threatens force or violence against groups, members of groups, their close associates, or their property in contravention of sections 80.2A to 80.2BE of the Criminal Code. The aggravated offence would carry a maximum penalty of 10 years imprisonment, or up to 12 years imprisonment if the conduct would also threaten the peace, order and good government of the Commonwealth.

The amendments seek to further combat hate crimes by expanding protections for members of the Australian community who have been affected by the significant and sustained increase in hate-motivated violence in Australia. These aggravated offences send a clear message that religious, spiritual and other leaders who hold significant positions of trust and authority in the community, and who exploit this influence by espousing violent extremist views, will be subject to serious criminal penalties.

Key definitions

The term 'religious official' would include religious officials authorised to lead or perform religious duties, such as ceremonies, rituals and preaching within their faith. This usually involves an official title and could include priests, imams, rabbis, bishops and chaplains.

The term 'spiritual leader' would include those that guide individuals or groups in their spiritual practices, including their faith, values and morals. This does not necessarily involve an official title. For example, people who may be classified as spiritual leaders include gurus, visionaries, guides, and mentors.

The inclusion of 'other leader (however described) of a group' is intended to capture leaders who may not fall under the category of religious official or spiritual leader but still occupy a position of significant trust and authority in the community. For example, this may include a principal of a school or a youth group leader.

The term 'pastoral care (whether religious or secular)' is intended to capture emotional, spiritual, and psychological support provided through guidance, counselling and teaching.

These terms are broad in nature and may capture a large variety of community leaders. However, the aggravated offences would only apply if the religious official, or spiritual or other leader (however described) who provides religious instruction or pastoral care, advocated or threatened violence against a group, member of a group, their close family members or their property in contravention of existing criminal offences.

Parts 1, 2 and 6 - Increased penalties for hate crime offences

Parts 1 and 6 of Schedule 1 of the Bill would increase penalties for offences involving advocating or threatening force or violence against protected groups, members of groups, their close associates, and their property. The maximum penalty for the offences would increase from 5 years to 7 years imprisonment, and from 7 to 10 years imprisonment if the conduct would also threaten the peace, order and good government of the Commonwealth. This change reflects the serious impacts that this conduct can have and aligns the penalties with other offences of similar severity such as advocating terrorism or advocating genocide.

Part 2 of Schedule 1 of the Bill will also increase the penalty for using a postal or similar service to menace, harass or cause offence from 2 years to 5 years imprisonment. This would ensure consistency with the offence for using a carriage service to menace, harass or cause offence which carries a maximum penalty of 5 years imprisonment.

Part 3 – Aggravated sentencing factor

In determining the sentence to be passed once someone has been found guilty of a Commonwealth offence, a court must impose a sentence or make an order that is of a severity appropriate in all the circumstances of the offence. In doing so a court must take into account matters such as the nature and circumstances of the offending, the circumstances of the victim and the need to ensure the person is adequately punished.

The Bill would amend the C*rimes Act 1914* to require the court to consider, as an aggravating factor for all Commonwealth offences, whether the conduct was motivated by hatred against a group or a member of a group distinguished by race, national or ethnic origin. This sentencing factor does not increase the maximum penalty available for the offence but ensures the court considers a higher penalty within the existing range. This aggravated sentencing factor would not apply to those offences that require the hate motivation to be proven as part of the offence, as that is already a key factor for sentencing in those cases.

Hate motivated conduct can cause profound harms, beyond those generally experienced by the offending conduct itself. It is an attack on the dignity of victims which affects the physical and psychological wellbeing of not only those who were targeted but of their whole community. Furthermore, it can lay a foundation for intolerance that undermines equality, respect and understanding and in turn causes fear, anxiety and division, and has a detrimental impact on the Australian community. Introducing this aggravated sentencing factor is intended to ensure that the courts recognise the increased seriousness of any offending where motivated by hate, and the additional harms this causes to both the victim and the Australian community.

Part 4 – Prohibited hate groups

Part 4 of the Bill would introduce a new Part 5.3B—Prohibited hate groups into the Criminal Code which would provide a framework for the making of regulations specifying (listing) an organisation as a prohibited hate group, and associated offences.

Division 114A - Preliminary

Division 114A would provide for definitions of key terms for the purpose of Part 5.3B, as well as the framework through which the AFP Minister can recommend the making of regulations specifying an organisation as a prohibited hate group.

Listing an organisation as a prohibited hate group

Section 114A.4 provides the mechanism through which an organisation could be listed as a prohibited hate group by the Governor-General through regulations. Before the Governor-General can make regulations, the AFP Minister (the Minister for Home Affairs) must be satisfied that the organisation:

- has directly engaged in, prepared or planned to engage in, or assisted the engagement in, conduct constituting a hate crime to the extent that the hate crime relates to race, or national or ethnic origin, or
- has advocated engaging in conduct constituting a hate crime to the extent that the hate crime relates to race, or national or ethnic origin.

The AFP Minister would also have to be satisfied that specifying the organisation as a prohibited hate group is reasonably necessary to prevent harm to the Australian community. The Minister may rely on acts that occurred prior to the commencement of the provisions to be satisfied the organisation meets the listing threshold.

The AFP Minister may only consider listing an organisation if they have first received a written recommendation from the Director-General of Security. The Director-General may make such a recommendation when satisfied that:

- the organisation has engaged in activities which, or the continuation of which, would or are likely to increase the risk of politically motivated violence, or of the promotion of communal violence, or
- the organisation has advocated for, or engaged in, politically motivated violence, or engaged in the promotion of communal violence, or activities that indicate a risk that the organisation may engage in such conduct in the future.

This process formalises the practice that listing decisions are based on advice and intelligence from law enforcement and intelligence agencies. While advice from the Director-General is required as a pre-requisite to making the listing, the Minister can also have regard to other information such as that provided by law enforcement, or through open-source material, in considering the organisation.

Further, the agreement of the Attorney-General must be obtained before a listing of a prohibited hate group can occur. As with other proscription frameworks in the Criminal Code, the Minister must also arrange for the Leader of the Opposition in the House of Representatives to be briefed on the proposed listing.

Hate crime

The definition of 'hate crime' is critical for the listing framework. A hate crime in this context would mean conduct which either constitutes an offence against:

- Subdivision C of Division 80 (Advocating or threatening force or violence offences and other offences against groups or members of groups including the new racial vilification offence), to the extent the targeted group is distinguished by race, or national or ethnic origin, other than sections 80.2 (Urging violence against the Constitution), 80.2C (Advocating terrorism) or 80.2D (Advocating genocide), or
- sections 80.2H and 80.2HA (Publicly displaying prohibited symbols and giving Nazi salute).

The express exclusion of sections 80.2, 80.2C and 80.2D recognises that these offences are distinct from other hate crime offences in Division 80. Section 80.2 captures a range of conduct aimed at institutions underpinning Australia, rather than conduct and violence directed to the public or a part of the public distinguished by race, national or ethnic origin. Similarly, while hate crimes are abhorrent, violent and offensive, they are distinguishable from terrorism and genocide, both of which are comprehensively addressed through criminal frameworks elsewhere in the Criminal Code.

A hate crime would also mean conduct or threats of conduct that involves, or would involve, any one or more of the following:

- causing serious harm to a person (the target person)
- causing serious damage to property (the target property)
- causing a person's (the target person) death
- endangering a person's (the target person) life, other than the life of the person taking the action, or
- creating a serious risk to the health or safety of a section of the public (the target persons).

Where conduct falls under this second limb of the definition, the conduct must have been engaged in because of the person's belief that the targeted person, persons or targeted property are distinguished by race, national or ethnic origin. However, it does not matter whether or not the targeted person, persons, or property are actually distinguished by the protected attribute.

To be satisfied that a group has engaged in, supported, or advocated for hate crimes, the Minister is not required to show that a person has been convicted in relation to this conduct. It is sufficient that the Minister is satisfied that the conduct would meet the above descriptions.

De-listing a prohibited hate group

Section 114A.8 would provide for a de-listing mechanism for prohibited hate groups. Prohibited hate groups must be de-listed if the AFP Minister ceases to be satisfied that it is reasonably necessary for the organisation to be specified as a prohibited hate group to prevent harm to the Australian community. The AFP Minister must then make a declaration, through a notifiable instrument, to the effect that they have ceased to be so satisfied. Before making a declaration, the AFP Minister must have regard to the matters that enable an organisation to be listed as a prohibited hate group and consult the Attorney-General in relation to the making of the declaration.

The de-listing mechanism is designed so that organisations are only specified so long as is reasonably necessary to prevent social, economic, psychological or physical harm to the Australian community. This ensures that the mechanism is reasonably appropriate and adapted to the purpose of protecting the Australian community from hateful and extremist conduct.

Role of the Committee

Consistent with other proscription frameworks in the Criminal Code, Division 114B would provide the Committee a mandate to review instruments in respect of prohibited hate groups. The framework would allow for the Committee to review, at any time, the legislative instrument specifying an organisation as a prohibited hate group, and an instrument made to add, or remove, names of a prohibited hate group. The Committee may also report on comments and recommendations to both Houses of the Parliament.

Division 114B – Offences

Division 114B would insert new offences criminalising certain dealings and interactions with an organisation which has been listed as a prohibited hate group. Once an organisation is listed, it would be a criminal offence to:

- direct the activities of a prohibited hate group
- be a member of a prohibited hate group
- recruit for a prohibited hate group
- receive, provide or participate in training involving a prohibited hate group
- get funds to, from or for a prohibited hate group, and
- providing support to a prohibited hate group.

These offences would be punishable by maximum penalties ranging from 7 to 15 years imprisonment, depending on severity of the offence and applicable fault element. These offences are intended to target a prohibited hate group's ability to operate, reducing their capacity to engage in, prepare, plan to engage in, assist or advocate for conduct constituting a hate crime. The offences achieve this by criminalising activities relating to membership, recruitment and leadership of these organisations, as well as targeting activities which would serve to sustain or grow an organisation, or allow the organisation to more effectively undertake, advocate or support hate crimes.

There are limited offence-specific defences for the offences of membership, and getting funds to, for or from a prohibited hate group. These target circumstances where a person has taken legitimate steps to avoid engaging in criminal activity or requires legal advice or representation in relation to Part 5.3B. In addition to offence-specific defences, two general defences would apply to all offences in Division 114B. These general defences cover limited but legitimate contact with a prohibited hate group where it is in accordance with an agreement or arrangement to which the Commonwealth is a party, or in the course of performing an official duty or function of the Commonwealth, State or Territory.

Part 5 – Racial vilification offence

Part 5 of Schedule 1 would prohibit conduct that is intended to promote or incite hatred or disseminate ideas of superiority that are targeted at persons and groups because of their race, colour or national or ethnic origin.

This type of hateful rhetoric is frequently used as a tool by extremists to dehumanise others. The harm caused by the promotion or incitement of hatred or ideas of superiority can be profound, affecting not only the physical and psychological wellbeing of the victim, but of the broader Australian community. It constitutes an attack on the dignity of those targeted and erodes their safety and security. While vilification is not itself an act of physical violence, vilification on the grounds of race, colour or national or ethnic origin is often a catalyst to more overt forms of violence that can cause serious harm to Australians.

By criminalising this conduct, the offence seeks to protect the ability of persons and groups distinguished by race, colour or national or ethnic origin to participate safely in society without intimidation or fear of harassment or violence, or fear for their safety.

New offence for publicly promoting or inciting racial hatred etc.

The Bill would create a new offence for promoting or inciting hatred of another person or a group of persons, or disseminating ideas of superiority over, or hatred of, another person or group of persons because of their race, colour or national or ethnic origin. This could involve, for example, publishing material that seriously denigrates or stigmatises an ethnic group or encourages others to harass members of that group. Disseminating ideas of superiority could involve publishing a manifesto online claiming a particular race should dominate another.

The offence specifically criminalises conduct engaged in a public place that would, in all the circumstances, cause a reasonable person who is the target, or a member of the target group, to be intimidated, to fear harassment or violence, or fear for their safety. This would reflect the serious harm the offence seeks to prevent, including conduct which causes persons or groups distinguished by race, colour or national or ethnic origin to feel unsafe, threatened or excluded from public life. This underscores the seriousness of this conduct and its incompatibility with Australia's values of equality and inclusion. By requiring consideration of the effect the conduct would have on a reasonable member of the targeted group in all the circumstances, the offence ensures the broader experience of groups who have been targeted by incidents of violence, vilification and hatred is taken into account. The maximum penalty for the offence would be 5 years imprisonment.

Defences

New subsection 80.2BF(4) would provide that the new offence does not apply to conduct that consists only of directly quoting, or otherwise paraphrasing, a religious text for the purpose of religious teaching or discussion if this is not contrary to the public interest. This defence is intended to protect the right to freedom of religion and to recognise that some historical religious texts may contain archaic language or historical 'call to arms' that, when part of religious teachings, should not fall within the new offence.

However, the requirement that the conduct consists only of directly quoting from, or otherwise paraphrasing, a religious text would sufficiently limit the defence to exclude conduct that uses a religious text as a precursor to engage in conduct that would be an offence under new section 80.2BF. For example, quoting a religious text and then encouraging listeners to act with hostility toward a racial group would not fall within the defence. Furthermore, if religious text is quoted as a means of advocating or threatening the use of force of violence it could be captured under those separate offences (such as s 80.2B).

The defence for acts done in good faith in section 80.3 of the Criminal Code would apply to the new offence in section 80.2BF to ensure legitimate forms of political communication would not be captured. However, the Bill would make specific changes to section 80.3 to clarify that a court should consider not applying the good faith defence if the person intentionally incited or promoted hatred as this would generally not be able to be done in good faith.

Definition of term 'engages in conduct in a public place'

The new offence would be limited to conduct that occurs in a public place. New subsection 80.2BF(7) would clarify the meaning of the term 'engages in conduct in a public place' by providing a non-exhaustive definition, recognising the broad range of conduct that could cause harm to persons or groups distinguished

by race, colour or national or ethnic origin or recruit or radicalise Australians to engage in this conduct. For the purpose of the new offence, a person engages in conduct in a public place if the person:

- communicates to the public using any form of communication, including speaking, writing, displaying notices, graffiti, playing of recorded material, broadcasting or communicating through social media or other electronic methods
- engages in any conduct, including actions and gestures and the wearing or display of clothing, signs, flags, emblems and insignia, that is observable by the public, and
- distributes or disseminates any matter to the public.

A person could engage in conduct in a public place even if the conduct occurs on private land, reflecting that conduct which could still be seen or heard by a member of the public who is in a public place is intended to be captured by the new offences.

Expressions of 'race', 'colour' and 'national or ethnic origin'

New subsection 80.2BF(8) would clarify that the expressions of 'race', 'colour' and 'national or ethnic origin' should be taken to have the same meanings as in the *Racial Discrimination Act 1975*. These terms are intended to have a broad meaning. The term 'race' would include an ethnicity but is not necessarily limited to one nationality. For example, those of Jewish origin would be protected by the offence. The term 'colour' would include skin colour. Determining 'national or ethnic origin' would include consideration of characteristics such as a shared history, separate cultural tradition, common geographical origin or descent from common ancestors, a common language, a common literature peculiar to the group, or a religion different from that of neighbouring groups or the general community surrounding the group.

Part 6 – Aggravated grooming offence

Part 6 of Schedule 1 would introduce two new aggravated offences which would apply to adults seeking to radicalise children. There has been a significant increase in the number of children planning and engaging in terrorism in recent years. Since the terrorism offences were introduced in 2001, 10 children have been convicted of terrorism offences. However, there are currently 17 children before the courts in relation to Commonwealth terrorism offences (representing over 50% of current matters). The online environment is a key driver of this radicalisation.

To limit the spread of hateful ideology to children, adults whose criminal conduct is intended to influence the actions of children will be specifically targeted by aggravated offences with more severe penalties. Where an adult commits one of the following offences and the conduct is directed at a person under the age of 18 the following maximum penalties will apply:

- advocating or threatening force or violence against groups, members of groups and their property (sections 80.2A, 80.2B, 80.2BC or 80.2BE of the Criminal Code) – 10 years imprisonment (increased from the new base penalty of 7 years), or 12 years imprisonment if the conduct would also threaten the peace, order and good government of the Commonwealth (increased from the new base penalty of 10 years)
- using a carriage service for violent extremist material – 7 years imprisonment (increased from the base penalty of 5 years).

Children are particularly vulnerable to violent extremist messaging because they are still developing cognitive and emotional skills, forming their sense of identity and belonging and have limited life experience. This

vulnerability makes them more impressionable and more likely to adopt extremist ideologies when exposed to advocacy of violence. Radicalisation at a young age can profoundly alter the trajectory of a child's life, increase the risk of long-term involvement in violent extremism and cause significant harm to families and the broader community. The aggravated offences, and higher associated penalties, recognise that deliberately exposing a child to this conduct is a serious act designed to exploit the vulnerability of children.

Part 7 – Hate symbols

The Criminal Code currently contains offences for the public display of prohibited symbols and the giving of the Nazi salute in a public place (sections 80.2H and 80.2HA), and for trading prohibited symbols (sections 80.2J and 80.2JA). It also contains an associated directions power for the public display offences (section 80.2K). Publicly displaying prohibited Nazi and terrorist organisation symbols causes significant harm to many Australians. Nazi symbols are widely recognised as representing and conveying ideologies of hatred, violence and racism which are incompatible with Australia's multicultural and democratic society. Similarly, violent extremists and terrorist organisations use symbols to signal their ideology to a wide-ranging audience, to recruit and inspire behaviours from like-minded individuals and to establish group belonging.

Since the commencement of the offences for publicly displaying prohibited hate symbols in January 2024, 4 individuals have been convicted and a further 11 remain before the courts on charges. The amendments in the Bill would ensure greater operational effectiveness of the offences and associated powers and reduce complexity in enforcement and prosecution.

Division 1 - Reversing the burden of proof for public interest elements of prohibited symbols offences

Division 1 will remove the current requirement in paragraphs 80.2H(1)(d) and 80.2HA(1)(d) for the prosecution to disprove the existence of a legitimate purpose for the public display of a prohibited symbol or the giving of the Nazi salute in a public place, and instead make it available as an offence-specific defence.

Operational experience since the commencement of the offences in January 2024 has demonstrated that requiring the prosecution to negate these legitimate purposes imposes a substantial evidentiary burden, often necessitating expert evidence and extensive investigation. This change would significantly reduce the complexity in enforcing these offences. All of these matters also rely on the purpose for which the person engaged in the conduct, which is likely to be peculiarly within the knowledge of the defendant. Consistent with the Guide to Framing Commonwealth Offences, the defendant is best placed to adduce evidence demonstrating their purpose, including for example evidence of their purpose in displaying the symbol in an academic paper. It will be relatively straightforward for a person to meet this threshold compared to the prosecution.

The new offence-specific defence in subsections 80.2H(9) and 80.2HA(9) would provide that subsections 80.2H(1) and 80.2HA(1) do not apply if a reasonable person would consider that the conduct mentioned in paragraph 80.2H(1)(a) or 80.2HA(1)(a) is:

- engaged in for a purpose that is a religious, academic, educational, artistic, literary or scientific purpose, and is not contrary to the public interest; or
- engaged in for the purpose of making a news or current affairs report that is in the public interest and is make by a person working in their professional journalistic capacity.

The defendant would bear the evidentiary burden for these offence-specific defences, meaning that if they wished to rely on a defence, they would need to point to evidence that suggests a reasonable possibility that the matter exists. The prosecution would then bear the legal burden of disproving that matter beyond reasonable doubt. There would continue to be an obligation on the CDPP to consider whether there are reasonable prospects of a conviction being secured before proceeding with a prosecution, including consideration of whether the prosecution is in the public interest. As part of making this determination, the CDPP is required to make an evaluation of how strong the case is likely to be when presented to court, including any lines of defence which are plainly open to, or have been indicated by, the alleged offender. This provides an additional safeguard, as it would ensure that the prosecution considers the existence of a defence in advance of proceeding with a prosecution and does not proceed with the prosecution unless they are satisfied that they have reasonable prospects of disproving the defence.

Division 2 - Lowering the fault element for prohibited terrorist organisation symbols offences

Division 2 would lower the fault element for prohibited terrorist organisation symbols offences, enabling the offence to be proved by showing a person was reckless as to whether the symbol they displayed was a prohibited organisation symbol, rather than requiring proof of knowledge. In order to prove recklessness, the prosecution would have to show that the defendant was aware of a substantial risk that the symbol they were displaying was a prohibited symbol and that, in all the circumstances, it was unjustifiable to take this risk. Lowering the fault element to recklessness would align the offence with the prohibited Nazi symbols offences and apply the standard (default) fault element in the Criminal Code.

To complement this change, a list of the most commonly used Nazi symbols, prohibited terrorist organisation symbols (including state sponsors of terrorism) and symbols used by prohibited hate groups will be published on the National Security website to support public awareness and law enforcement engagement with community groups. It would also ensure that the community can readily identify symbols that are prohibited from being publicly displayed and provide clear, accessible public information to support effective enforcement of the offences.

Division 3 – Expanding definition of prohibited organisation symbol

Division 3 will amend section 80.2E to expand the definition of prohibited hate symbol to include symbols of prohibited hate groups (as given meaning by Division 114A) or its members, to identify the prohibited hate group or any part of this prohibited hate group. This amendment is intended to capture symbols that are inextricably linked with a prohibited hate group, being an organisation that has directly engaged in, prepared or planned to engage in, or assisted the engagement in conduct constituting, a hate crime or has advocated conduct consisting of a hate crime. The symbols may be used to identify a prohibited hate group by the organisation itself or by its members, in a range of media, contexts and formats including but not limited to promotional or recruitment material, telecommunication exchanges between members, public statements or propaganda.

Expanding these offences to capture symbols of prohibited hate groups recognises that prohibited hate groups use symbols to intimidate and threaten the Australian community by promoting violence, fear, discrimination and hatred. Prohibited hate groups also use symbols to advance their extreme ideologies to a wide-reaching audience, to recruit and inspire behaviours from like-minded individuals and to establish belonging. The harm caused by prohibited hate groups and their activities, which can be conveyed powerfully through the use of symbology, can affect the whole community.

Division 4 – Amending the reasonable person test

The offences for publicly displaying prohibited symbols at sections 80.2H and 80.2HA of the Criminal Code require the prosecution to establish that the defendant was reckless as to the fact that the offending conduct could have one of the impacts outlined in subsections (3) and (4), which are concerned with the effect the conduct would have from the perspective of a reasonable person This amendment would replace the current general 'reasonable person' test in the offences with a test that is focused on the perspective of a reasonable person who is a member of the group of persons targeted by the conduct. This new test ensures that consideration is given to the particular perspective and context of a reasonable member of that group, including any oppression, marginalisation or intimidation that they may have experienced.

Division 5 – Directions power

The Bill will expand the directions power by amending paragraph 80.2K(1)(a) to omit "other than by" and substitute it with "including by". This amendment would expand the existing power in section 80.2K for police officers to direct a person to cause a prohibited symbol to cease being displayed in a public place online. This would allow police to issue a direction, either orally or writing, to a person to remove a prohibited symbol from public display on the internet to a person who they suspect on reasonable grounds caused the prohibited symbol to be displayed in the public place on the internet (subparagraph 80.2L(2)(a)(i)). Providing police officers with this power is necessary to ensure that the central purpose of the display offence is not frustrated. It is consistent with the purpose of the offence that police officers have an appropriate tool to minimise the harm caused to the public by the display of a prohibited symbol.

This amendment would only allow police officers to issue a direction to the person who caused the prohibited symbol to be displayed in the public place online. It is not intended that the power be expanded to allow the police to issue directions to, for example, internet service providers. This is because the directions power is intended to complement, not replicate, the powers of the eSafety Commissioner. It is appropriate that the eSafety Commissioner and the Online Safety Act 2021 continue to be the central agency for regulating service providers though mechanisms such as take down notices, industry codes and standards and basic online safety expectations.

Division 6 – Seizing things displaying a prohibited symbol

The Bill would insert new section 80.2N into the Criminal Code, which would provide police officers with a new power to seize a thing which is, depicts or contains a prohibited symbol that is being displayed in a public place. The new seizure power would provide police officers with power to take immediate enforcement action to prevent the commission or continuation of an offence under section 80.2H or 80.2HA. It is intended to complement the existing power for police officers to direct a person to cease displaying a prohibited symbol by ensuring that the offence is not undermined by the continued display of harmful symbols.

The directions power would remain available as a tool for police officers to deal with the broad range of circumstances in which a symbol could be displayed in a public place (for example, a prohibited symbol graffitied on a wall). The introduction of a seizure power would enable immediate disruption of the harm caused by the continued public display of a prohibited symbol (for example, where a prohibited symbol is displayed at a protest), consistent with the policy intention to minimise the harms caused to the Australian community by the public display of symbols associated with violent ideologies and the risk of radicalisation and normalisation of such symbols.

Under the new seizure power, a police officer may seize a thing for the purpose of preventing the commission or continuation of an offence against subsections 80.2H or 80.2HA, if the police officer has a reasonable suspicion that the circumstances in subsection 80.2K(2), (3) or (6) are met.

The new seizure power would be limited to seizing items that are in public places and would not provide the police with the power to enter private premises. In exercising the seizure power, police officers would be able to use such assistance as is necessary, and would not be allowed to damage a thing unless it is reasonably necessary for the seizure. This is intended to ensure that police can do what is needed in the circumstances to exercise the power and prevent further harm, whilst also ensuring that people's property is not unnecessarily damaged.

The Bill would provide a mechanism by which the person from whom a thing was seized, or the owner the thing, could apply for the things return. Under this mechanism, the police officer must return the thing unless satisfied that the thing must be retained to prevent the commission or continuation of an offence, or relation of the thing is necessary for evidentiary purposes. The purpose of this is to ensure that things are only seized for as long as is necessary to address the harms caused by the public display, and to recognise that private ownership or display of prohibited symbols is not a criminal offence. If no application for a return of the thing is made in 90 days, the Bill would provide that the police officer who has custody of the seized thing could destroy or otherwise dispose of it. This is to ensure that agencies do not have to carry the financial and administrative burden of maintaining seized items after a reasonable period of time has passed in which the person of whom the item was seized, or the owner of the item, has not made any efforts to apply for the item to be returned.

Schedule 2

Part 1 – amendments to the *Migration Act 1958* to address hate-motivated conduct and extremism

Part 1 of Schedule 2 to the Bill will amend the character-related provisions of the *Migration Act 1958* to establish additional, specific character grounds for the Minister to refuse to grant or to cancel a visa on the basis of hate-motivated conduct or offences relating to the spread of hatred and extremism.

The new grounds will enable the Minister to exercise powers under section 500A and section 501 of the Migration Act to refuse to grant, or to cancel, a visa where any of the following circumstances apply:

- the person is, or was, a member of or associated with (where that association has provided support to) an organisation that was, at any time of the membership or association, a terrorist organisation, state sponsor of terrorism, or prohibited hate group;
- the person has been or is involved in conduct constituting a 'hate crime' (as defined in section 114A.3 of the Criminal Code), whether or not that person, or another person, has been convicted of an offence constituted by the conduct;
- the person has made or endorsed one or more public statements (in Australia or overseas), including online, or has encouraged one or more persons to make such a statement, that involves the dissemination of ideas based on superiority over or hatred of other persons on the basis of race, colour, or national or ethnic origin, and the person's conduct may give rise to a risk of harm to the Australian community or a segment of the Australian community.

These new grounds address the risks that a non-citizen may pose to the safety of the Australian community through conduct that promotes hatred and extremism, including in circumstances where community risk is evident, or a hate crime has been committed, but there is no criminal justice outcome.

For example, these amendments would enable the Minister to consider whether to refuse to grant or to cancel a visa on the basis that the Minister reasonably suspects that the person does not pass the character test because a person has been or is involved in conduct that constitutes a hate crime, within the meaning of section 114A.3 of the Criminal Code.

Significantly, while these amendments establish additional grounds for the purposes of the character provisions of the Migration Act, they would not introduce any new powers under these provisions. The amendments also do not modify the existing framework for the application of the rules of natural justice under subsections 501(1) and (2) or the exclusion of the rules of natural justice in certain circumstances where the Minister exercises powers personally under section 500A or subsections 501(3) and (3A) of the Migration Act.

Part 2 – amendments to the *Migration Regulations 1994* to expand the permanent exclusion period

Part 2 of Schedule 2 would amend the *Migration Regulations 1994* to extend the application of Special Return Criterion 5001 to permanently exclude individuals refused a visa on character grounds from returning to Australia, unless the refusal is revoked or the Minister has personally granted a permanent visa to the person. This would mean that a person refused a visa on the basis of character grounds is subject to permanent exclusion from returning to Australia, regardless of whether that person was in Australia when the visa was refused.

This has the effect that a person refused a visa under sections 501, 501A, or 501B is permanently excluded from being granted a further visa, where Special Return Criterion 5001 applies.

Schedule 3

Part 1 – Prohibited material

Part 1 of Schedule 3 will make amendments to Customs regulations to prohibit the import or export of goods that are violent extremist material, prohibited symbols and goods containing these things, unless one of the limited exceptions applies or permission has been granted. Currently, the import and export controls available to prohibit the import or export of violent extremist material and prohibited symbols, and goods containing these things, are limited in their scope. These amendments will expand the meaning of objectionable goods to include violent extremist material, prohibited hate symbols and goods that contain such things. This will allow these goods to be seized at the border.

The exemptions for being able to import or export these goods include for a religious, academic, educational, artistic, literary or scientific purpose, news reporting or law enforcement activities.

The definition of ‘violent extremist material’ and ‘prohibited symbols’ have the same meaning as the Criminal Code to ensure consistency of application of government policy.

These amendments will also remove the commercial quantity condition (25 or more) applying to the import and export of objectionable goods. The more severe penalty that is only currently available for breaching customs law where the commercial condition is met will now apply to the unlawful import or export of any objectionable good. This is appropriate because advancements in technology and information storage have rendered the commercial quantity condition obsolete, with modern storage devices capable of storing large volumes of objectionable material, whereas under existing legislation each individual device is considered one individual good.

Increasing the penalties for any objectionable good is intended to:

- make appropriate sanctions available to a court for identified egregious offences;
- increase the deterrence effect of the border controls; and
- encourage voluntary compliance with border controls.

Part 2 – Powers relating to instruments

Part 2 of Schedule 3 will make amendments the Customs Act to clarify and support other amendments of customs legislation in the Bill.

The amendment of section 4A of the Customs Act makes clear that instruments approving the use of certain online portals and digital forms (known as 'approved statements') have the same status as the instruments approving the paper or PDF versions of forms (known as 'approved forms'). Pursuant to the *Legislation (Exemptions and Other Matters) Regulation 2015* such instruments are either exempt or argued to be characterised as approving the manner or method of doing an act and therefore falling within the exemption.

The amendment clarifies that forms or statements approved for the purposes of the Customs Act are not legislative instruments – for example, forms used for the purposes of the police certification test on firearms imports (refer to Part 6 of Schedule 4 of the Bill).

Current sections 50 and 112 of the Customs Act provide the heads of powers for regulations dealing with prohibited imports and prohibited exports respectively. Those regulations include provisions that allow for the Minister to make legislative instruments that set out the circumstances and preconditions for importing and exporting certain goods. The amendments of sections 50 and 112 make this clear on the face of the Customs Act, also supporting the amendments in Part 4 of Schedule 4 to the Bill, which enable the Minister to make rules in relation to the public safety test for firearms and weapons imports.

Schedule 4

Part 1 – National gun buyback

Part 1 of Schedule 4 proposes new provisions to establish a National Gun Buyback Scheme (Buyback Scheme) The Buyback Scheme is aimed at supporting the National Cabinet agreement on 15 December 2025 to strengthen national gun laws. This includes a proposed limit on the number of firearms for individuals, restricting certain types of firearms, reviewed licensing requirements and timeframes, and increased use of criminal intelligence in licensing processes.

There are now more than four million registered firearms in Australia, which is likely more than at the time of the Port Arthur massacre, nearly 30 years ago. The Buyback Scheme would lead to a significant reduction in

the number of firearms circulating within the Australian community. It would also provide compensation for surplus and firearms proposed to be restricted.

The proposed Bill measures set out the framework for the Buyback Scheme, including establishing its purpose. Consistent with the approach taken in the 1996 national gun buyback scheme, this scheme would be facilitated through a coordinated national framework. The Commonwealth would provide reimbursements to the states and territories to support their respective implementation of the Buyback Scheme. Reimbursements to the states and territories would be made through the established Federation Funding Agreements Framework.

The Buyback Scheme will be available until 31 December 2027. The Bill provides the ability for states and territories to commence participation as they are ready, subject to agreement on national firearm reforms and jurisdictions implementing the necessary legal and operational frameworks, which may occur at different times.

The exact conditions of the Buyback Scheme remain a decision for government and are subject to negotiations with states and territories. The Bill provides instrument making powers for the Minister for Home Affairs to set out the scope and details. The Government currently proposes the Buyback Scheme cover:

- compensation for surplus and newly restricted firearms to provide fair compensation for firearm owners
- cost sharing on a 50:50 basis with the states and territories, and
- the AFP working in partnership with state and territory police to destroy surrendered firearms.

The Permanent National Firearms Amnesty is available for already illegal firearms. The Amnesty allows for firearms to be handed back to police or dealers without fear of prosecution, with no compensation paid.

Part 2 – Firearms background checks

On 15 December 2015, National Cabinet agreed to allow the additional use of intelligence to underpin firearms licence decision making.

At the Commonwealth level, ASIO obtains, correlates and evaluates intelligence relevant to security, including politically motivated violence (including terrorism) and the promotion of communal violence, and the ACIC collects, correlates, analyses and disseminates criminal intelligence concerning serious and organised crime. Enabling greater use of this intelligence to inform firearms licensing decisions would prevent violent extremists and serious and organised criminals from obtaining and retaining firearms licences. However, any framework to enable the use of intelligence in administrative decision-making processes must be carefully designed to mitigate the risk of the inadvertent exposure of sensitive sources, capabilities and methods.

Part 2 of Schedule 4 of the Bill would establish the foundations for a new Commonwealth background checking framework, in relation to State and Territory firearms licensing decisions. The Bill would:

- Division 1—establish a legislative basis for AusCheck, as the Commonwealth background checking authority, to facilitate background checks in relation to State and Territory firearms licensing decisions
- Division 2—amend the *Australian Crime Commission Act 2002* (ACC Act) to enable the ACIC to give criminal intelligence assessments as part of a firearms background check, and amend the *Australian*

Security Intelligence Organisation Act 1979 (ASIO Act) to expand ASIO's ability to furnish security assessments in relation to State and Territory firearms licensing decisions

- Division 3—enable the ACIC to receive, use and disclose information concerning spent, pardoned and quashed convictions for the purposes of its criminal intelligence assessment function, and enable ASIO to receive, use and disclose such information for the purposes of its functions, and
- Division 4—make consequential amendments to support a Commonwealth background checking framework, in particular to ensure that the ACIC and ASIO can use and disclose a wider range of information to inform their intelligence assessments, and to defend those assessments if challenged.

The ACIC and ASIO have well-established intelligence-sharing relationships with Commonwealth, State and Territory law enforcement agencies, including through the Joint Counter-Terrorism Teams and Joint Organised Crime Task Forces. At present, ASIO is also able to provide security assessments to inform, or recommend, State and Territory firearms licensing decisions, under Part IV of the ASIO Act.

The proposed Commonwealth background checking framework would supplement these existing arrangements, by providing a comprehensive framework to enable ACIC and ASIO intelligence to:

- form an input to State and Territory firearms licensing authorities when considering whether to issue or renew a firearms licence (point-in-time checks), and
- trigger the review, suspension or cancellation of a firearms licence, at the ACIC or ASIO's own motion, or following a request from a Commonwealth, state or territory law enforcement partner to review an existing licence-holder's background check (proactive, own-motion checks).

Division 1 of Part 2 contains foundational provisions to enable AusCheck to facilitate Commonwealth background checks, which would comprise of one or more of:

- a security assessment from ASIO
- a criminal intelligence assessment from the ACIC, and
- citizenship verification in limited circumstances, such as where citizenship loss or renunciation is suspected.

AusCheck's role in facilitating firearms background checks would assist to protect sensitive intelligence contained in security assessments and criminal intelligence assessments from being inadvertently exposed in administrative decision-making processes. AusCheck would be able to provide State and Territory firearms licencing authorities with advice as to the outcome of the ACIC and ASIO's assessment, rather than detailed intelligence, unless the relevant State or Territory has implemented appropriate legislative and operational arrangements to protect more detailed intelligence. This approach would also enable the Commonwealth to manage any challenges to, or requests for the review of, the ACIC and ASIO's assessments. The ACIC and ASIO's intelligence-sharing relationships with law enforcement agencies would be unaffected.

More detailed provisions dealing with the operationalisation of the framework would be contained in:

- legislation in each State and Territory, to incorporate Commonwealth background checks into their respective licensing processes—which would deal with the circumstances in which each jurisdiction would request a background check, and how the outcome of such checks would be incorporated into firearms licensing decisions, and

- Regulations made under the *AusCheck Act 2007*, following consultation with the States and Territories, consistent with the position agreed by the joint meeting of the Police Ministers Council and the Standing Council of Attorneys-General on 9 January 2026, dealing with matters such as:
    - how applications for firearms background checks are to be made
    - information to be contained in applications for firearms background checks
    - the manner for conducting firearms background checks
    - the criteria against which an application for a firearms background check is to be assessed, and
    - the form of advice to be given to the applicant for a firearms background check (such as a State or Territory firearms licensing authority) and other persons.

The inclusion of detailed arrangements for the operationalisation of the Commonwealth firearms background check framework in Regulations is consistent with other background check frameworks under the *AusCheck Act 2007*.

Division 2 of Part 2 contains amendments to the ACC Act and ASIO Act, relating to the ACIC and ASIO's intelligence assessment frameworks. The amendments to the ACC Act would enable the ACIC to provide criminal intelligence assessments in relation to State and Territory firearms licensing decisions, as a foundational amendment to enable the ACIC to provide advice through AusCheck about serious and organised crime-related risks relating to firearms licences.

The amendments to the ACC Act would also introduce a revised criminal intelligence assessment framework under a new Part III to the ACC Act, reflecting the findings of the *Independent Review of the Australian Criminal Intelligence Commission and associated Commonwealth law enforcement arrangements* (ACIC Review). These amendments would deliver targeted changes to strengthen the operation of the ACIC's criminal intelligence assessment framework and expand the scope of the framework, including to provide criminal intelligence assessments to AusCheck for the purpose of firearms background checks. The new framework would enable the ACIC to consider whether taking prescribed administrative action (such as refusing or cancelling a firearms licence) would assist to prevent the advancement of serious and organised crime, rather than preventing the subject from committing a particular crime. This would be complemented by the introduction of a new definition for 'serious and organised crime' which would capture offences that may have been committed, may presently be being committed, or may be committed in the future. In recognition of the findings of the ACIC Review, the inclusion of this temporal element aims to ensure the ACIC can be responsive to the threat of serious and organised crime, including by operating in an anticipatory or discovery phase of an investigation.

As noted above, ASIO can currently furnish security assessments in relation to decisions under State and Territory law to issue and revoke firearms licences. The amendments to the ASIO Act would clarify that ASIO may also furnish security assessments about decisions to renew, vary or suspend licences, consistent with the amendments to the ACC Act.

The Bill would amend both the ACC Act and ASIO Act to provide that the ACIC and ASIO are not required to notify an individual of, and merits review in the Administrative Review Tribunal is not available in relation to, firearms licence-related assessments. Intelligence assessments would form an input to the ultimate decision by State and Territory firearms licensing authorities, which would be subject to review in accordance with the laws of the relevant jurisdiction. The ACIC and ASIO would continue to be required to afford firearms licence applicants and holders with procedural fairness when making an assessment, including ensuring that the individual may know the case against them and may be provided with the opportunity to be heard, to the

extent possible without prejudicing public safety or national security. An individual would also retain the ability to seek judicial review of an assessment in accordance with subsection 75(v) of the Constitution or section 39B of the *Judiciary Act 1903*.

The Bill would also amend both the ACC Act and ASIO Act to provide for the use of automated decision making in relation to criminal intelligence assessments, for the ACIC, and specified assessment action, for ASIO. The use of automation is necessary to support current and anticipated future assessment volumes for each agency. The ACIC and ASIO each currently make between approximately 150,000 and 180,000 assessments per year. The introduction of a Commonwealth firearms background checking framework could increase this by up to an estimated 261,000 assessments per year, based on current firearms licensing volumes. The automated decision making provisions have been developed having regard to the Commonwealth Ombudsman's *Automated Decision Making Better Practice Guide* to ensure automated systems comply with administrative law principles of legality, fairness, rationality and transparency. The amendments would provide that certain instruments are not legislative instruments and are exempt from the *Legislation Act 2003*, to avoid disclosing sensitive information concerning how the ACIC and ASIO make assessments.

Division 3 of Part 2 would enable:

- the ACIC to receive, use and disclose information concerning spent, pardoned and quashed convictions for the purposes of its criminal intelligence assessment function
- ASIO to receive, use and disclose such information for the purposes of its functions, and
- an intelligence or security agency to use or disclose such information for the purpose of assessing prospective employees or members of the agency, or persons proposed to be engaged as consultants to, or perform services for, the agency or a member of the agency.

Information about spent, pardoned and quashed convictions may be relevant to the question of whether a person should be granted a firearms licence, or be employed or engaged by an intelligence or security agency. This may be the case where, for example a person's conviction for a terrorism offence or a serious and organised crime offence was quashed on procedural grounds, without controverting the evidence of their conduct.

Division 4 of Part 2 would make consequential amendments relating to the Commonwealth background checking framework. The substantive amendments in this Division (other than technical amendments and updating cross-references to new provisions) would amend the *Australian Border Force Act 2015*, *Crimes Act 1914*, *Surveillance Devices Act 2004* and *Telecommunications Act 1979* to:

- ensure that the ACIC and ASIO can consistently receive, use, disclose and give in evidence information obtained under those Acts, for the purposes of making intelligence assessments and defending them in proceedings, and
- enable the ACIC to access telecommunications data under the *Telecommunications (Interception and Access) Act 1979* for the purposes of its criminal intelligence assessment function—which would more closely align the ACIC's powers with ASIO's, and enable the ACIC to access telecommunications data to assist it to resolve foundational intelligence questions such as the identities of, and potential associations between, persons in the context of an intelligence assessment.

Part 3 – Transmission of firearms information and other information to ACIC

Part 3 of Schedule 4 would amend the *Customs Act 1901* to introduce a new information sharing and disclosure framework to facilitate the automatic disclosure of firearms information, and other prescribed information, collected by the Department of Home Affairs to the ACIC Chief Executive Officer, on the authorisation of the Secretary of Home Affairs, or the Comptroller-General of Customs. 'Firearms information' is information relating to firearms or other related goods (including firearms frames, receivers and sound suppressors). It may include information relating to import and export of firearms, information relating to licenses or permits, or personal and other information.

This new framework will be critical to support the National Firearms Register (NFR), which will be an integrated system that connects and draws information from existing Commonwealth, state and territory firearms registries, portals and management systems into one central register. The NFR will provide a life cycle view of registered firearms in Australia, delivering timely and accurate information on firearms, firearm owners and licences across all jurisdictions. Firearms information will be a vital component of the NFR, as it will include information on the entry of 'birth' of a firearm in Australia, and enable the tracking of a firearm from that import to the end user and ultimately destruction or export.

Part 4 – Public safety tests for firearms and weapons

Part 4 of Schedule 4 would amend the Customs (Prohibited Imports) Regulations 1956 to introduce a new public safety test for firearms and weapons, which would enable the Minister for Home Affairs, or their delegate, to refuse an import permission for a firearm or weapon, or related good, where the importation of that item poses a risk to the health, safety or security of the public or a sector of the public.

The current Prohibited Import Regulations do not provide a clear basis for refusing a firearms or weapons import where the item poses an unacceptable risk to public safety. The public safety test is consistent with the National Firearms Agreement, which states that possession and use of a firearm is a privilege that is conditional on the overriding need to protect public safety.

The amendments provide the Minister with the ability to further consider whether an importation poses a significant risk to the health, safety or security of the public or a segment of the public once it has met other legislative tests for importation. The Minister would have discretion to apply the test to an application for permission to import an article.

This power would be supported by a legislative instrument made by the Minister, outlining the factors that must be considered in applying the test.

Part 5 – Importation of firearms

Part 5 of Schedule 4 would amend the Customs (Prohibited Imports) Regulations 1956 to strengthen import controls for firearms related goods by:

- restricting importation and requiring Commonwealth import permission for certain firearms and accessories, like handguns and repeating straight-pull rifles and shotguns
- capturing gel-ball blasters as 'firearms' for import control purposes, and
- restricting the importation of firearms to Australian citizens.

Division 1 of Part 5 introduces definitions of assisted repeating action and straight pull repeating action firearms and amends the Regulations to impose requirements for the importation of these firearms, and align restrictions on them with semi-automatic firearms. This would prohibit the importation of these firearm types for recreational users, due to the ability to fire and reload rapidly, and restrict them to a more limited category of firearm licence holders, such as for pest controllers or government users.

Division 2 of Part 5 introduces requirements for the importation of firearms which are operated using belt-fed ammunition, placing this type of firearm in the highest controlled category. These firearms pose a significant safety and security risk to the public, as they are capable of firing at a higher rate of fire than other firearms regulated at a similar level. The amendments would place belt-fed firearms under the same importation restrictions as fully automatic firearms, the highest possible category.

Division 3 of Part 5 introduces restrictions on the importation of magazines with a capacity of more than 30 rounds to allow for importation of these magazines only where they comply with one of the prescribed tests, such as for use with already highly restricted firearms like semi-automatic firearms. This explicitly aligns the Prohibited Import Regulations with Commonwealth obligations in the National Firearms Agreement. Magazines with a capacity of more than 30 rounds have extremely limited legitimate uses outside of law enforcement or defence purposes, and it is not appropriate that they be available for importation by the general public.

Division 4 of Part 5 amends the regulations to require Commonwealth importation permission for handguns instead of state and territory police certification. This recognises the limited legitimate circumstances requiring handgun use, and their desirability on the illegal market by serious and organised criminals. This will align with other highly restricted firearms, such as semi-automatic rifles, and provide critical oversight of the number of permits for handguns being authorised and for what purpose.

Division 5 of Part 5 introduces identification and serial number requirements for firearm frames and receivers, aligning them with the existing requirements for complete firearms. Currently, the inspection and verification of firearm frames or receivers is dependent on the firearm they are intended for use with. This means not all frames or receivers imported are tracked in existing firearms systems. Ensuring all frames and receivers require serial numbers, examination and verification regardless of their intended use will improve the effectiveness of the National Firearms Register and support accurate tracking of these items from entry or ‘birth’ into Australia.

Division 6 of Part 5 introduces additional requirements for the importation of skirmish markers to impose identification requirements and safety testing as per all other firearms imported into Australia. This will also define gel-ball blasters as firearms, bringing them under Commonwealth import controls and mandating identification and safety requirements. This amendment recognises the community safety risk from gel-ball blasters, particularly those that are near indistinguishable in appearance from automatic firearms. Gel-ball blasters are increasingly being manufactured to be almost indistinguishable from conventional and fully automatic firearms, and there is also evidence they can be converted into fully functional conventional firearms.

Despite largely being non-lethal, gel-ball blasters are used by criminals to intimidate and carry out criminal activity. Their close resemblance to real firearms is an increasing public safety concern given law enforcement cannot always distinguish them from regulated firearms.

Division 7 of Part 5 introduces a requirement that all importation of firearms be limited to Australian citizens, in line with National Cabinet's agreement to restrict firearms licences to Australian citizens.

Division 8 of Part 5 introduces a requirement to serialise sound suppressors and require visual inspection for the importation of sound suppressors. This will improve the effectiveness of the National Firearms Register and accurate tracking of these items, which are desirable to criminal actors.

Division 9 of Part 5 introduces a requirement to capture speed loaders as firearm accessories and require import permissions. Speed loaders can be used to rapidly reload a firearm, increasing the potential harm of a shooting incident.

Part 6 – Approved forms for police certification for firearms imports

Part 6 of Schedule 4 would amend the Customs (Prohibited Imports) Regulations 1956 to strengthen the police certification test by removing the ability for importers to rely on a single statement from state and territory police to import firearms or weapons on open-ended permits. Open-ended permits can last for up to 5 years, and allow for regular importers such as firearms dealers to import uncapped numbers of firearms to be imported over that period with limited oversight prior to import. These reforms will require a separate import permission for each importation, and increase the visibility of numbers and types of firearms being imported under state and territory police certification.

Part 7 – Offences relating to use of carriage service for firearms and explosives manufacture material

Part 7 of Schedule 4 of the Bill will insert new Subdivision HA - 'Offences relating to use of carriage service for firearms and explosives manufacture material' into Division 474 of the Criminal Code, establishing new offences for using a carriage service for firearms and explosives manufacture material (new section 474.45G); and possessing or controlling firearms and explosives manufacture material that is obtained or accessed using a carriage service (new section 474.45H).

The offences in new Subdivision HB would complement state and territory laws which criminalise the illicit manufacture of firearms and explosives, through the introduction of Commonwealth offences that target the handling of material which provides instruction or otherwise facilitates manufacture or modification of firearms, explosive devices, and associated things. This would capture, for example, files for 3D printing of firearms. Noting the significant harm of violent offending, including terrorism, that illicit firearms pose to the community, it is critical that this enabling material is criminalised to prevent this harm.

The new offences would complement existing offences by facilitating law enforcement's intervention at an earlier stage of illicit weapon production or violent offending. The offences would also provide a greater opportunity for the disruption of networks that disseminate dangerous technical information about how to manufacture or modify illicit firearms and explosives.

Definition of 'firearms and explosives manufacture material'

Section 474.45F(1)(a) and (b) will set out the definition of 'firearms and explosives manufacture material' as material that provides instructions on, or supports or facilitates, the manufacture or modification of a firearm, firearm accessory, firearm part, firearm magazine, ammunition or component of ammunition, or

explosive or other lethal device. This might include files that can instruct a 3D printer to print firearm parts, or an instructional manual that describes how to assemble an explosive using available parts.

Firearm, firearm accessory, firearm part, firearm magazine and component of ammunition would be defined for the purposes of this provision to have the same meaning as in the *Customs (Prohibited Imports) Regulations 1956*. These definitions include:

- 'Firearm' as a device designed or adapted to discharge a projectile by means of an explosive charge or compressed gas. This includes rifles, pistols, shotguns and other weapons capable of firing projectiles.
- 'Firearm accessory' as items designed to be attached to a firearm to enhance its function, such as silencers, scopes or mounts. These accessories can significantly increase the effectiveness or concealability of a weapon.
- 'Firearm magazine' as a container or device for holding and feeding ammunition into a firearm.
- 'Firearm part' as any component essential to the operation of a firearm, such as barrels, frames, receivers or triggers. These parts can be assembled into a working firearm even if other components are missing.
- 'Component of ammunition' as any part designed for use in ammunition, such as cartridge cases, primers, propellant powder or projectiles. These components are essential for producing functional ammunition and can be combined with other parts to create lethal rounds.

The term 'ammunition' would take its ordinary meaning.

'Explosive and other lethal device' would have the same meaning given by the International Convention for the Suppression of Terrorist Bombings, done at New York on 15 December 1997, per section 72.1 of the Criminal Code. This includes:

- Substances and devices intended to cause an explosion or lethal effect, including improvised explosive devices. The definition is broad and captures both commercial explosives and homemade devices.

New offences: Sections 474.45G, 474.45H

The new offences established by the Bill are intended to cover a broad range of activities that a person could undertake in relation to firearms and explosives manufacture material which amount to dealing with the material or a link to the material via a carriage service. For example, the offences could be committed by accessing or transmitting firearms and explosives manufacture material using a range of platforms such as web pages, social media applications, email, chat forums, and text messages; or by downloading firearms and explosives manufacture material from the internet onto a digital storage device.

The captured conduct reflects the significant risk posed by the dissemination of such material given its potential to facilitate illicit weapon or explosive manufacture or production and allows law enforcement to intervene before an illicit firearm is manufactured and used, reducing the risk of these items being used for acts of violence.

These offences would carry a maximum penalty of 5 years imprisonment, which is consistent with the penalty for the existing offences for using a carriage service for violent extremist material.

Offence-specific defences

Section 474.45J would provide defences in respect of the offences for using a carriage service for firearms and explosives manufacture material, and possessing or controlling firearms and explosives manufacture material obtained or accessed using a carriage service. These defences have been included to address legitimate usage of firearms and explosives manufacture material. These legitimate uses include:

- when a business owner holds a licence or permit that authorises the manufacture, repair, maintenance or modification of the relevant devices, and accesses the material in connection with the carrying on of their business conduct that is necessary for enforcing a law
- conduct that is for the purposes of proceedings in a court or tribunal
- conduct that is in connection with the performance by a public official of the official's duties or functions, or
- scientific, academic or historical research.

Part 8 – Ammunition Equipment

Part 8 of Schedule 4 will amend the Prohibited Imports Regulations to introduce a new definition of 'ammunition equipment', being an item that is designed to be worn on any part of the body for the specific purpose of allowing the wearer to readily access ammunition to increase the speed of reloading, and which can hold more than 30 rounds of ammunition. Ammunition equipment does not extend to items that can carry ammunition but were not designed for that purpose. These items pose a risk to public safety as they allow a person to carry significant amounts of ammunition on their person, and reload firearms faster.

Amendments will impose import requirements for ammunition equipment, and importation can only occur where they comply with one of the prescribed tests. The prescribed tests available for these items will support import permission where the equipment is required for occupational (such as a pest controller), defence or law enforcement purposes, or where the equipment is required as part of participation in sports shooting competitions.

Conclusion

The departments thank the committee for the opportunity to provide a submission for its inquiry into the Bill. It is essential that legislation effectively addresses current manifestations of hateful conduct, and ensure that those that seek to spread hate, division and radicalisation are met with severe penalties. This Bill addresses the rising levels of antisemitic and other hate speech in Australia, and seeks to prevent further hatred fuelled violence and extremism.