

Parliamentary Joint Committee on Intelligence and Security

PO Box 6021
Parliament House
Canberra ACT 2600
Email: pjcis@aph.gov.au

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Re: Review of the Exposure Draft Legislation: Combatting Antisemitism, Hate and Extremism Bill 2026

Submission by: Paul Towler

[REDACTED]

Dear Committee Members,

I am writing as a [REDACTED] resident and a concerned citizen. I strongly support robust measures to protect communities from violence, hatred, and radicalisation, especially in light of the tragic Bondi Beach attack on 14 December 2025. However, I have significant concerns about the potential implications for free speech in the Exposure Draft Bill, particularly given the expedited timeline and the broad scope of certain proposed offences.

Australia's implied constitutional freedom of political communication (as established in Lange v Australian Broadcasting Corporation and subsequent cases) safeguards public discussion of matters of importance, including politics, religion, culture, and foreign affairs. Existing federal laws (e.g., Criminal Code ss 80.2A–80.2BE) already criminalise advocacy or threats of force or violence against protected groups where intent or recklessness is present. The new provisions, however, appear to extend into lower-threshold areas that risk suppressing legitimate expression.

Key Concerns

1. Vagueness of Key Terms and Offences

The Bill introduces or expands offences such as “aggravated hate speech,” “promoting or inciting racial hatred,” and “inciting hatred to intimidate or harass.” Terms like “promoting hatred,” “aggravated hate speech,” and “spreading hatred” lack precise definitions in current law and could be interpreted subjectively. Without clear, objective thresholds, such as requiring an imminent risk of harm or direct incitement to violence, consistent with international free speech standards, enforcement may hinge on perceived offensiveness rather than actual harm. This could criminalise robust political debate, criticism of governments or religions, or commentary on conflicts, even when non-violent.

2. Expansion Beyond Incitement to Violence

While current offences focus on advocating or threatening physical force or violence, the Bill’s new offences appear to target broader “hate preaching,” youth radicalisation, or the dissemination of “ideas of racial superiority,” without always requiring a link to violence. This risks overreach; for example, religious sermons, academic discussions, or online posts expressing strong views on identity or culture could be captured if deemed

to “promote hatred.” The limited defence for quoting religious texts “solely for religious teaching or discussion” is welcome but inconsistent secular, political, or cultural speech should receive equivalent protection.

3. Prohibited Hate Groups Framework

The new lower-threshold listing of “Prohibited Hate Groups,” with criminal penalties for membership, support, or recruitment, could indirectly restrict speech. If groups are listed for promoting hatred rather than terrorism, associating with or expressing sympathy for their ideas, even peacefully, could become criminal. This resembles overbroad proscription regimes that have been criticised for stifling dissent.

4. Rushed Process and Proportionality

The extremely short submission window and Parliament’s recall for the 19–20 January debate limit scrutiny. While the urgency is understandable following the Bondi attack, complex speech laws require careful balancing to avoid unintended chilling effects on public discourse.

Recommendations

- Strengthen safeguards by requiring offences to include intent to incite imminent violence or a clear risk of harm, consistent with implied freedom jurisprudence.
- Narrow vague terms with precise definitions and higher mens rea standards (e.g., intention rather than recklessness for lower-threshold offences).
- Expand defences to consistently cover good-faith political, academic, artistic, or religious expression.
- Consider separating hate speech provisions from unrelated firearms/gun buyback measures to allow focused debate. [Document | Word]
- Ensure independent oversight (e.g., via the Australian Human Rights Commission) for enforcement and listings.

I urge the Committee to recommend amendments that preserve robust free speech while effectively targeting genuine threats of violence and radicalisation. Thank you for considering this submission.

Yours sincerely,

Paul Towler