

10 August 2026

Our ref: [BC:CLC]

Committee Secretariat
Justice, Integrity and Community Safety Committee
Parliament House
George Street
Brisbane Qld 4000

By email: [REDACTED]

Dear Committee Secretary,

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

We refer to the Summary Offences (Protection of the Australian Flag) Amendment Bill 2026 (**the Bill**) referred for inquiry to the Justice Integrity and Community Safety Committee.

The Society is the peak professional body for the State's legal practitioners. We represent and promote over 14,000 legal professionals, increase community understanding of the law, help protect the rights of individuals and advise the community about the many benefits solicitors can provide. QLS also assists the public by advising government on improvements to laws affecting Queenslanders and working to improve their access to the law.

The Society does not support the passage of the Bill.

The Society does not support a new offence specifically dealing with burning or destruction of an Australian National Flag. This position is held for the following reasons:

- (a) Existing offences appropriately capture conduct relating to burning an Australian flag in a public space. There is not gap in the criminal law in relation to this form of offending.
- (b) Enacting a new offence with the structure proposed would involve creating an unfair statutory test relating to subjective thresholds such as intimidate or cause significant offence.
- (c) Enacting a new or amended offence is not an appropriate response to achieving the stated objectives of the Bill.

Adequacy of existing law

It is the position of the Society that existing offences adequately capture an act of publicly burning an Australian flag in certain circumstances.

There are several available offences that capture this conduct. Existing offences include:

Summary Offences Act 2005 (Qld)

Section 6 - Public nuisance

- (1) A person must not commit a public nuisance offence.
Maximum penalty—
 - (a) if the offence involves circumstances of aggravation—25 penalty units or 6 months imprisonment; or
 - (b) otherwise—10 penalty units or 6 months imprisonment.
- (2) A person commits a public nuisance offence if—
 - (a) the person behaves in—
 - (i) a disorderly way; or
 - (ii) an offensive way; or
 - (iii) a threatening way; or
 - (iv) a violent way; and
 - (b) the person's behaviour interferes, or is likely to interfere, with the peaceful passage through, or enjoyment of, a public place by a member of the public.
- (3) Without limiting subsection (2)—
 - (a) a person behaves in an offensive way if the person uses offensive, obscene, indecent or abusive language; and
 - (b) a person behaves in a threatening way if the person uses threatening language.
- (4) It is not necessary for a person to make a complaint about the behaviour of another person before a police officer may start a proceeding against the person for a public nuisance offence.
- (5) Also, in a proceeding for a public nuisance offence, more than 1 matter mentioned in subsection (2)(a) may be relied on to prove a single public nuisance offence.
- (6) It is a circumstance of aggravation for this section for a person to commit a public nuisance offence in either or both of the following circumstances—
 - (a) within licensed premises, or in the vicinity of licensed premises;
 - (b) the circumstance of aggravation stated in the Criminal Code, section 52B, as if this section were a prescribed offence mentioned in that section.

Section 26B - Publishing material about particular offending

- (1) A person must not, without reasonable excuse, publish material on a social media platform or an online social network if—
 - (a) the material depicts conduct that constitutes a prescribed offence; and
 - (b) the person publishes the material for the purpose of—
 - (i) glorifying the conduct; or
 - (ii) increasing the person's reputation, or another person's reputation, because of their involvement in the conduct.

Maximum penalty—2 years imprisonment.

- (2) Subsection (1) does not apply to publication of material by a journalist in the course of their activities as a journalist.
- (3) A person may be proceeded against for, and convicted of, an offence against subsection (1) whether or not anyone has been proceeded against for, or convicted of, the prescribed offence.
- (4) A person may not be convicted of both—
 - (a) an offence against subsection (1) relating to the publication of material depicting conduct that constitutes a relevant Code or weapons offence; and
 - (b) a relevant Code or weapons offence with a circumstance of aggravation relating to the publication of material on a social media platform or an online social network.

Fire Services Act 1990 (Qld)

Section 145 Offence to light unauthorised fire

A person who lights a fire that is not authorised by this part or by any notification, notice or permit given under this part commits an offence against this Act.

Criminal Code Act 1899 (Qld)

Section 469 Wilful damage

- (1) Any person who wilfully and unlawfully destroys or damages any property is guilty of an offence which, unless otherwise stated, is a misdemeanour, and the person is liable, if no other punishment is provided, to imprisonment for 5 years.
- (2) If the offender commits the offence with the circumstance of aggravation stated in section 52B, the offender is liable, if no other punishment is provided, to imprisonment for 7 years.
- (3) For this section, other than punishment in special cases, clause 11, the destruction or damage of property that is a thing mentioned in section 566(11) is presumed to be done without the owner's consent until the contrary is proved.
- (4) For this section, punishment in special cases, clause 11, the destruction or damage of property is, until the contrary is proved, presumed to be done—
 - (a) without the owner's consent; and
 - (b) if the property is fixed in a cemetery or at a crematorium—
 - (i) without the lawful consent of the entity (if any) responsible for managing and administering the cemetery or crematorium; and
 - (ii) not in the reasonable belief that lawful consent mentioned in subparagraph (i) has been given.

Chapter 7A Serious vilification and prohibited symbols

52A Offence of serious racial, religious, sexuality, sex characteristics or gender identity vilification

- (1) A person must not, by a public act, knowingly or recklessly incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of the race, religion, sexuality, sex characteristics or gender identity of the person or members of the group in a way that includes—
 - (a) threatening physical harm towards, or towards any property of, the person or group of persons; or
 - (b) inciting others to threaten physical harm towards, or towards any property of, the person or group of persons. Maximum penalty—3 years imprisonment.

The Society's position is that the existing criminal law provisions are already sufficiently broad to capture the conduct sought to be addressed by the proposed offence. Creating an additional standalone offence risks unnecessary duplication within the criminal law, increasing complexity and uncertainty without identifying a clear legislative gap. In the absence of compelling evidence that existing offences are inadequate or incapable of addressing the conduct in question, the preferable approach is to rely on the current legislative framework, which provides the Queensland Police Service and the courts with appropriate powers to investigate, prosecute and sentence offending behaviour.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on [REDACTED] [REDACTED]

Yours faithfully



Peter Jolly
President