

3 February 2026

Legislative Assembly Committee on Law and Safety
Submitted online

Dear Committee

Submission on Measures to combat right-wing extremism in New South Wales

Thank you for the opportunity to provide this short submission.

We limit our comments to concerns relating to the Crimes and Summary Offences Amendment Bill 2025 (term of reference 1).

We have three concerns about the legislation as introduced to NSW Parliament.

‘Invoking imagery or characteristics that a reasonable person would consider to be associated with Nazi ideology’

In replacing the existing section 93ZA of the *Crimes Act 1900* (NSW) with a redrafted section, the Bill supplements the current two offences in this provision with two additional offences. Both of these proposed new offences apply where a person:

knowingly engages in conduct, by public act and without reasonable excuse... that indicates support for Nazi ideology by invoking imagery or characteristics that a reasonable person would consider to be associated with Nazi ideology, and... the conduct would cause a reasonable person to... fear harassment, intimidation or violence, or... fear for the person’s safety.¹

The stated intent of these new offences is to ensure ‘that the offences are broad enough to capture conduct indicating support for Nazi ideology that goes beyond the display of Nazi symbols.’²

We suggest that the intention of this provision might be better achieved by removing the words ‘by invoking imagery or characteristics that a reasonable person would consider to be associated with Nazi ideology’. In other words, the offence would be committed where a person:

¹ With the proposed new offence in sub-section 93ZA(3) applying where this conduct is performed at or near a Jewish place, and sub-section 93ZA(4) applying where this conduct is performed other than at or near a Jewish place.

² Second Reading Speech, Attorney General the Hon Michael Daley MP, NSW Legislative Assembly Hansard, 19 November 2025, available at: <https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/'HANSARD-1323879322-160168'>

knowingly engages in conduct, by public act and without reasonable excuse... that indicates support for Nazi ideology ~~by invoking imagery or characteristics that a reasonable person would consider to be associated with Nazi ideology,~~ and... the conduct would cause a reasonable person to... fear harassment, intimidation or violence, or... fear for the person's safety.³

There are a number of related benefits to this approach.

This amendment simplifies the offence and focuses it on intentional, unreasonable public acts of support for Nazi ideology that would cause a reasonable person fear, regardless of the *manner* of such conduct.

This avoids complications with proving that a person has invoked 'imagery or characteristics that a reasonable person would consider to be associated with Nazi ideology'. With more than 80 years having elapsed since the end of World War II, a 'reasonable person' may have only a limited understanding of Nazi ideology, its imagery and characteristics. This includes those aspects of Nazi ideology that targeted groups in addition to Jewish people, including LGBTQ+ people, people with disability and other ethnic and national minorities.

This also avoids a potential 'whack-a-mole game' of Nazi symbols and imagery being developed to be displayed for the purposes of harassment and intimidation where such symbols may not be familiar to a reasonable person.

We recognise that the suggested amendment broadens the scope of this proposed offence, which should be done cautiously to avoid impinging unduly on freedom of expression. However, we submit that the focus on the core elements of this offence, rather than the particular means by which intentional support for Nazi ideology is publicly demonstrated, is preferable. The offence will also continue to require that a person lacked a reasonable excuse – including acts done reasonably and in good faith for a purpose in the public interest.⁴

The aggravated offences should apply to a broader range of places

The aggravated offences in s 93ZA – both the existing aggravated offence in s 93ZA(1), and the proposed new aggravated offence in s 93ZA(3) – apply where the conduct is performed 'on or near a Jewish place', with Jewish place later defined as 'means a synagogue, a Jewish school or the Sydney Jewish Museum.'

We submit that it should also be a circumstance of aggravation for the conduct to be performed on a near a place that is associated with other groups or communities who are also targeted by neo-Nazis, and Nazi ideology more broadly. As discussed above, this includes LGBTQ+ people, people with disability, and other ethnic and national minorities.

One of the events which precipitated the current set of amendments was the protest outside NSW Parliament on Saturday 8 November 2025, at which neo-Nazis held a banner with the

³ With the proposed new offence in sub-section 93ZA(3) applying where this conduct is performed at or near a Jewish place, and sub-section 93ZA(4) applying where this conduct is performed other than at or near a Jewish place.

⁴ Proposed 93ZA(6).

message 'Abolish the Jewish Lobby.' However, this was not the first abhorrent protest outside a State Parliament in recent years – with neo-Nazis attending an anti-trans event outside Victorian Parliament in March 2023, holding a banner targeting the transgender community with the message 'Destroy Paedo Freaks'.

This discrepancy is highlighted by the fact that the Gay and Lesbian Holocaust Memorial, located in Green Park, Darlinghurst, is not in itself a place that would attract an aggravated offence for public acts associated with displays of neo-Nazi ideology – but would potentially be covered because it is located near to the Sydney Jewish Museum.

We therefore suggest that consideration be given to extending the range of places covered by the aggravated offences in sub-sections 93ZA(1) and (3) to ensure they also apply to other vulnerable communities targeted by neo-Nazi ideology.

Including 'opposing Nazi ideology' as a reasonable excuse

In expanding the offences created under s93ZA, the Crimes and Summary Offences Amendment Bill 2025 replicates the existing reasonable excuse exception, defined as:

a reasonable excuse includes the display of a Nazi symbol or conduct reasonable done and in good faith... for an academic, artistic or educational purpose, or... for another purpose in the public interest.⁵

While the meaning of 'another purpose in the public interest' may be broadly interpreted depending on the circumstances, we note that, unlike other Australian jurisdictions with similar laws, there is no specific exception for the use of Nazi symbols or related imagery for the purposes of opposing neo-Nazis or Nazi ideology.

For example, the equivalent provision in Victoria includes the following:

A person does not contravene [the provision] if the display of the Nazi symbol or the Nazi gesture was engaged in reasonably and in good faith in opposition to fascism, Nazism, neo-Nazism or other related ideologies.⁶

We support providing clarity that engaging in anti-fascist and anti-Nazi activities which may use Nazi imagery to convey those anti-fascist and anti-Nazi messages is not, and is not intended to be, unlawful.

We therefore suggest that the Committee recommended that the Bill be amended to adopt a similar exception to sub-section 41K(2B) of the Victorian *Summary Offences Act 1966*.

Thank you again for the opportunity to provide this submission. Please contact me at the details provided should the Committee require additional information.

⁵ Proposed sub-section 93ZA(6).

⁶ Sub-section 41K(2B), *Summary Offences Act 1966* (Vic).

Yours sincerely

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