



26 March 2026

Mr Jake Blight
Independent National Security Legislation Monitor
By email: DefiningTerrorism@inslm.gov.au

Dear Mr Blight

Re: Supplementary Submission to Review of the Definition of ‘Terrorist Act’ in the Criminal Code

VALS welcomes the opportunity to provide a further response to the Independent National Security Legislation Monitor’s (INSLM) Review of the definition of a ‘terrorist act’ in section 100.1 of the *Criminal Code Act 1995* (Cth) (**Review**).

This submission provides feedback on two matters:

1. A proposal to remove reference to ‘religious’ and ‘political’ causes in sub-section (b) and instead consolidate these under a single reference to ideological causes.¹
2. A proposal to expand the ‘actions’ that may constitute a ‘terrorist act’ in the definition to recognise damage to sites of cultural significance.

Our feedback on these matters is **below**.

1. Using the concept of ideology as a ‘catch-all’ motivation

Position: VALS supports the removal of emphasis on ‘religious’ and ‘political’ causes from sub-section (b) in the definition of ‘terrorist act’ and recommends providing a note or example making it clear that ‘ideology’ includes white supremacist, settler-nationalist, colonialist and racist ideology.

VALS supports removing emphasis on religious and political motivations

VALS supports removing the references to religious and political causes and consolidating these motivations under the concept of ideological causes.

We consider this may help to shift enforcement culture away from a disproportionate focus on religious extremism – and a focus on enforcement against Muslim communities in particular – at a time when non-religious, racially motivated, white supremacist, settler-nationalist and ‘mixed motive’ extremism is on the rise. This would promote a

¹ The definition of ‘terrorist act’ in section 1001.1 of the [Criminal Code Act 1995](#) (Cth) currently requires that a person had the “intention of advancing a political, religious or ideological cause”.



more accurate, balanced and contemporary understanding of terrorist motivations and the current terrorist threat environment.

VALS recommends including a legislative reference to white supremacist, settler-nationalist, colonialist and racist ideology

While the concept of ideology captures white supremacist, settler-nationalist, colonialist and racist belief systems in theory,² VALS is concerned that these ideologies are not recognised by law enforcement in practice.

As outlined in our initial submission, there has been a longstanding failure by Commonwealth and State law enforcement agencies and governments, the media and dominant culture in Australia to recognise and hold white supremacist actors accountable for ideologically motivated terror inflicted since colonisation. Terrorism has been identified with double standards depending on the perpetrator's race or religion and the target community, as opposed to the conduct of the perpetrator.

As outlined in our initial submission, biases in law enforcement operate such that white and Judeo-Christian people are assumed to be non-terrorists and protected by law enforcement. Violence perpetrated by this cohort is often not addressed nor is it labelled as promptly as it should be. While black, brown and Muslim people are often promptly unduly framed as terrorists, and threats to their lives are not treated with the urgency or seriousness that is deserved.

Recent events in Boorloo³ and Bondi demonstrate that these dynamics persist. For example, the delayed recognition of the attempted massacre at the Boorloo Invasion Day/Survival Day gathering in January 2026 as a 'terrorist act' stands in stark contrast to the swift and confident characterisation of the Bondi massacre a month prior as terrorism. A comparison of these events is further outlined in the case study **below**.

The politically selective labelling of terrorism is also demonstrated in the Victoria Police's use of terrorist powers against anti-war activists engaged in lawful protest,⁴ while white supremacist groups and individual actors remain unaddressed, under-policed and unlisted as terrorist organisations.⁵ The lack of police action against neo-Nazi and white supremacist individuals and groups on 31 August 2025 led to the attack of Camp Sovereignty in plain sight, and stands in sharp contrast to the over-policing of anti-genocide protests⁶

² The AVERT (Addressing Violent Extremism and Radicalisation to Terrorism) Research Network (AVERT), [Submission to the Independent National Security Legislation Monitor Defining Terrorism: Review of the Definition of a 'Terrorist Act' in section 100.1 of the Criminal Code Act 1995](#), 21 October 2025.

³ Colonial Name: Perth.

⁴ For example, police used special powers under terrorist legislation on anti-war protests at the Land Forces International Land Defence Exposition in Melbourne's CBD, as documented in MALS, [Legal Observer Team Report: The Policing of the DLF Protests](#) (January 2025).

⁵ As evidenced by the lack of formal and timely police and government response to the Neo Nazi action at the Northland Shopping Centre on 31 May-1 June, and the fact that multiple prominent Neo Nazi organisations are not listed as terrorist organisations (see footnote 4).

⁶ MALS, [Legal Observer Team Report: The Policing of the DLF Protests](#) (January 2025), and VALS, ['VALS supports the right to protest and condemns Victoria Police's response to anti-war protests'](#) (Media Release) (23 September 2024).



These examples demonstrate an ongoing pattern in Australia where law enforcement institutions and still struggle to identify white supremacist and neo-Nazi violence as terrorism and implement the laws with normative settler-nationalist and racial bias.

Given the persistence of double standards in enforcement, VALS recommends that, in addition to referring to ‘ideological causes’ as the relevant intention in sub-section (b), the definition include a non-exhaustive example clarifying that ‘ideological causes’ includes white supremacist, settler-nationalist, colonialist and racist ideology. This will:

- help address law enforcement’s ‘blind spot’ with relation to these ideologies,
- signal parliamentary intent to address racially motivated extremism,
- reduce interpretive ambiguity and assist prosecutors in charging decisions,
- perform an educative function for law enforcement, prosecutors and courts,
- improve public confidence in terrorism law,
- help correct discriminatory enforcement patterns, and
- contribute to decolonising the conceptual framing of terrorism in Australian law.

‘Racial causes’ have been explicitly recognised as a relevant motivation in the *Terrorism Act 2000* (UK) since 2006.⁷ However, we prefer our recommended approach of identifying ‘white supremacist, settler-nationalist, colonialist and racist ideology’ over the UK approach of referring to a ‘racial cause’ to more clearly identify white-supremacist racial causes as the issue, as opposed to all racial causes given ‘racial causes’ may be interpreted to include ‘anti-racist’ causes. Definitional clarity is necessary to assist with charging decisions.

Comparing law enforcement response to terrorist attacks at Boorloo and Bondi

In response to the Boorloo attack, police and political leadership were slow to classify this attack as a terrorist incident and emphasised the need for investigation before a charge could be made. Public appeals from the state for information focussed on uncertainty about the perpetrator’s motivation, despite clear contextual indicators of aiming a bomb at a protest full of people advocating for Aboriginal rights and recognition.⁸ Law enforcement’s language was watered down, with the Western Australia Police Commissioner saying the attempted massacre was being treated as a “hostile act” in the aftermath of the attack and referring to the bomb as a “device”.⁹ The Prime Minister addressed the incident only after being asked about it at a press conference the following day in Garramilla (Darwin) and did not proactively condemn the attack or make a statement of solidarity for the Aboriginal community in the days

⁷ Section 1(c) of the [Terrorism Act 2000 \(UK\)](#) defines terrorism as requiring ‘the use or threat is made for the purpose of advancing a political, religious racial or ideological cause.’ Racial was inserted in 2006 [by The Terrorism Act 2006 \(Commencement No. 1\) Order 2006](#).

⁸ Keane Bourke, [‘Why haven’t police labelled Perth’s Invasion Day rally incident terrorism? Here’s what we know’](#), ABC News (Online) 28 January 2026.

⁹ Keane Bourke, [‘Why haven’t police labelled Perth’s Invasion Day rally incident terrorism? Here’s what we know’](#), ABC News (Online) 28 January 2026. Lorena Allam, [Invasion Day is about Indigenous people’s survival, our resilience. To strike at the heart of that is a hate crime](#), The Guardian (Online) 7 February 2026.



following the attack.¹⁰ The charge of terrorism was made 9 days after it took place, and following staunch advocacy for stronger action from Parliament by Aboriginal community members,¹¹ including Noongar community leaders and Senator Lidia Thorpe.¹²

In contrast, the Bondi massacre was declared a terrorist act by the New South Wales Police Commissioner less than three hours after the first call to emergency services was made.¹³ The Bondi massacre received high-visibility and sustained media coverage that immediately reflected consistent recognition of the massacre as a terrorist act.¹⁴ Parliament was called back from break early and introduced major emergency legislation on gun control, hate groups and hate speech.¹⁵ The Government announced a Royal Commission on Antisemitism and Social Cohesion.¹⁶ This Royal Commission does not include examination of racism against Aboriginal people in its Terms of Reference, even in light of the attempted massacre in Boorloo and the history of Aboriginal people being massacred in Australia due to white supremacist, settler-nationalist, colonialist and racist ideology.¹⁶

On 4 March 2026, a Parliamentary Inquiry was announced into racism, hate and violence directed at Aboriginal and Torres Strait Islander people. However this is significantly more limited in reach, exposure and resourcing than a Royal Commission, and is a totally inadequate response.

2. Expanding the meaning of property damage

Position: VALS supports amending the list of actions in sub-section (2) of the definition of ‘terrorist act’ to expressly list the action of ‘serious damage to Aboriginal sacred sites and sites of cultural significance’. This would clarify that ideologically motivated destruction of Aboriginal sacred and culturally significant sites that is intended to intimidate a section of the public can fall within the meaning of terrorist acts.

The ideologically motivated destruction of Aboriginal sacred sites and sites of cultural significance has been an ongoing weapon for exerting violence against Aboriginal people

¹⁰ Dechlan Brennan, ‘*Our lives matter too*’: *Thorpe moves motion to condemn bomb attack at Invasion Day rally*, National Indigenous Times (Online) 3 February 2026.

¹¹ Levi West, ‘*Why did it take 9 days to declare the Perth bombing attempt a terrorist attack?*’, The Conversation (Online) 5 February 2026.

¹² Prime Minister of Australia, *Press Conference – Sydney*, (Transcript) 15 December 2025

¹³ SBS News, ‘*What we know so far as NSW Police declare Bondi shooting terrorist incident*’, (Webpage) 14 December 2025; Penry Buckley, ‘*Bondi beach terror attack: PM and premier vow to change gun laws after ‘horrifying’ weapons used to kill 15*’, The Guardian (Online) 15 December 2025; Maani Truu and Clare Armstrong, ‘*National cabinet agrees unanimously to strengthen Australia’s strict gun laws in wake of Bondi terror attack*’, ABC News (Online) 15 December 2025.

¹⁴ Prime Minister of Australia, *Parliament to be recalled for national security legislation* (Media release) 12 January 2026.

¹⁵ Prime Minister of Australia, *Establishment of Royal Commission on Antisemitism and Social Cohesion* (Media release) 8 January 2026.

¹⁶ See: Katie Kiss (Aboriginal and Torres Strait Islander Social Justice Commissioner), *Racial hatred: no one is safe until we are all safe*, (Opinion Piece) 23 January 2026; Royal Commission on Antisemitism and Social Cohesion, *Terms of Reference*, accessed 18 February 2026 <<https://asc.royalcommission.gov.au/about/terms-reference>>.



and communities, and common practice by settlers since colonisation.¹⁷ The attacks on Camp Sovereignty in Naarm at the end of 2025 demonstrates that this is a real and ongoing threat.¹⁸

Serious damage and desecration of Aboriginal sacred sites and sites of cultural significance, when undertaken to advance ideological causes and with the intention to intimidate Aboriginal people are not simply acts of criminal damage or hate crimes, though they may overlap with these offences, because it is an act that goes beyond individual prejudice or physical damage – it involves an intention to communicate an ideological message and intimidate. Where such conduct satisfies the elements of Part 5.3 of the Criminal Code, it should be investigated and prosecuted as terrorism.

Clarification of this through legislative amendment may assist in guiding law enforcement to investigate and prosecute such conduct as a terrorist act and in also assist in deterring it. For this reason, we recommend the Review recommend amending the list of ‘actions’ in sub-section (2) of the definition of ‘terrorist act’ to expressly list the action and harm of ‘serious damage to Aboriginal sacred sites and sites of cultural significance’.

Australian counter-terrorism law recognises that ‘serious damage to property’ may constitute terrorism where it meets the other criteria of ideological intent and purpose of influencing government or intimidating the public or a section of the public. Aboriginal sacred sites and sites of cultural significance deserve at least equivalent recognition.

Australian law recognises that connection to land is foundational to identity, law, spirituality and cultural continuity¹⁹ and Australia has obligations under international law to protect Aboriginal culture.²⁰ To recognise regular ‘serious property damage’ as terrorism and not serious damage to Aboriginal sacred sites and sites of cultural significance would be to perpetuate a broader pattern that has existed since colonisation in which violence against Aboriginal people and indifference to Aboriginal cultural survival is normalised and deprioritised by the government, law enforcement and the media. It would also undermine community cohesion in Australia more generally by deepening racial division and undermining public confidence in the protection of Aboriginal people.

¹⁷ Yoorrook Justice Commission, *Truth Be Told*, (Report), pp 8, 37 and 6; and Yoorrook Justice Commission, *Yoorrook for Transformation Third Interim Report Volume 2* (Report) (2025), p 117. See also: Commonwealth of Australia, *A Way Forward: Report of the Inquiry into the destruction of 46,000 year old caves at the Juukan Gorge in the Pilbara region of Western Australia* (Inquiry Report) October 2021 and Commonwealth of Australia, *Never Again: Inquiry into the destruction of 46,000 year old caves at the Juukan Gorge in the Pilbara region of Western Australia- Interim Report* (Inquiry Report) 7 December 2020. The destruction of Djab Wurrung birthing trees and the destruction of sacred stone sites in *Lake Bolac* are further examples from Victoria.

¹⁸ ABC News, [Victorian government condemns far-right attack on Camp Sovereignty after anti-immigration rally](#) (ABC Online).

²⁰ International Covenant on Civil and Political Rights (ICCPR), Article 27; International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).



The rule of law requires substantive equality before the law, and by extension, it requires that the law respond with equal seriousness to serious damage Aboriginal sites as it does to other ‘property’.

We note that the adequate protection of sacred sites and sites of cultural significance for would still require increasing penalties under heritage legislation, strengthen enforcement and compliance and social cohesion.

Defining Aboriginal sacred sites and sites of cultural significance in the Code

Currently, there is no singular definition or list of Aboriginal sacred sites and Aboriginal sites of cultural significance for definition of ‘terrorist act’ to adopt.

Any definition of Aboriginal sacred sites and sites of cultural significance **must:**

- **be developed in consultation with Aboriginal and Torres Strait Islander communities around Australia** to ensure that it can capture different conceptualisations of these sites among different nations. The relevant groups to consult with might include representative bodies, Land Councils, Traditional Owner Groups. In Victoria, the First Peoples’ Assembly should also be consulted. We are willing to provide further guidance on how a consultation process could be designed in future; and
- **be flexible and non-exhaustive, while still aiming to provide clarity to law enforcement.** This will support the protection of sacred sites and sites of cultural significance that may not be formally recognised or easily identified by police. Current laws include non-exhaustive definitions that defer to what is determined to be sacred or significant according to Aboriginal perspectives. For example, in Victorian law, ‘cultural heritage significance’ is defined to include archaeological, anthropological, contemporary, historical, scientific, social or spiritual significance and ²¹Aboriginal tradition.

According to testimony to the Yoorrook Justice Commission, Aboriginal sacred sites are places of spiritual, ceremonial, Dreaming significance – connecting to traditional culture and ancestry.²² In Victoria, sites of cultural significance might include places such as heritage sites and modern places of significance, including places such as Camp Sovereignty, the Aboriginal Advancement League and old missions that became a home to Aboriginal people when removed from Country, such as Framlingham and Lake Tyers Missions.

²¹ s 4, *Aboriginal Heritage Act 2006* (Vic).

²² See: Yoorrook Justice Commission, *Yoorrook for Transformation Third Interim Report Volume 2* (Report) (2025). Yoorrook Justice Commission, *Truth Be Told*, (Report).



3. Addressing the limitations of the Review

Position: VALS calls on the Review to explicitly acknowledge the limitations of legislative reform and to point to complementary non-legislative reforms to address bias and discrimination in law enforcement.

While the amendments we have recommended in this submission are important and necessary to promote substantive equality and protection for Aboriginal people in the enforcement of terrorism law, we note that changing the definition of ‘terrorist act’ alone will not deliver the stronger protection that Aboriginal people need from terrorism laws.

The primary barriers to better protection of Aboriginal people through terrorism laws are racism within institutions, policing and broader ²³ It is evident in the continuance of racist rhetoric by politicians that models and normalises disrespect for Aboriginal people and communities²⁴ ongoing lack of action to address Aboriginal deaths in custody;²⁵ lack of accountability for racist and discriminatory policing practices;²⁶ lack of implementation of recommendations by the Yoorrook Justice Commission;²⁷ overrepresentation of Aboriginal children and young people being removed from their families and imprisoned;²⁸ over-policing and criminalisation of Aboriginal people; and the under-policing of crimes against Aboriginal people and investigations into missing and murdered Aboriginal women;²⁹ lack of progress towards meeting commitment under the National Agreement on Closing the Gap; dog-whistling;³⁰ engagement in debates and culture wars about Welcomes to Country and Acknowledgements of Country; politicisation of Aboriginal policy priorities;³¹ and the protection of settler-nationalist celebrations on January 26 – the day that genocide against Aboriginal communities commenced.

Racism is engrained in Australian society and has been since colonisation. As set out in our initial submission to this Review, racism has existed since invasion and continues to do so – it is a tool of colonisation that persists today. It is systemic in police forces around Australia, and this is driven by government policies and Parliamentarians that fuel social

²³ See VALS initial submission to this Review.

²⁴ Dechlan Brennan, ‘[Legal groups demand greater transparency as data shows Indigenous deaths in custody on the rise](#)’, National Indigenous Times (Online) (30 January 2024).

²⁵ VALS, ‘[Police Impunity must end](#)’ (Media Release) (10 October 2022).

²⁶ VALS, ‘[Business as usual is not good enough – Aboriginal people deserve more from the Victorian Government](#)’ (Media Release) (23 October 2024).

²⁷ NIT, “Deplorable”: [More than 1 in 10 Aboriginal children in Victoria have been removed from their families, new data reveals](#) (2024).

²⁸ Senate Inquiry into Missing and murdered First National women and Children, [Final Report](#) published August 2024.

²⁹ See, The Australian Institute, ‘[Under the Radar: Dog-whistle politics in Australia](#)’ (Report) (September 2007) ‘Dog-whistle politics is the art of sending coded or implicit messages to a select group of voters while keeping others in the dark [...] Its key feature is plausible deniability: the dog whistler can say ‘I didn’t mean that, I meant this instead’. And it is usually a divisive or reactionary message that it conceals, one that would risk offending or scandalising more tolerant voters’. Recent examples of dog-whistling include certain politicians using ‘housing and cost of living’ arguments against migration as a dog-whistle and cover for xenophobia.

³¹ See Victorian Aboriginal Community Controlled Health Organisation, ‘[VACCHO Outraged by Governments Potential Backflip on Raising the Age of Criminal Responsibility](#)’, (Media Release) (12 August 2024) and Victorian Aboriginal Legal Service, ‘[Victorian Government Betrays Aboriginal Children](#)’, (Media Release) (20 March 2024).



division and discrimination against Aboriginal people with racist rhetoric, dog-whistling and government inaction and policies that disregard and undermine Aboriginal lives and culture, as discussed in our initial submission.

While we can make minor changes to the definition of terrorist act to encourage police towards more fair and non-discriminatory enforcement practices, individual bias will continue to influence prosecutorial discretion for as long as the government fuels racism and social division and fails to invest in measures to address bias.

Without structural and cultural change that teaches active anti-racism, anti-discrimination and respect for Aboriginal culture and rights in Australia, law enforcement decision-makers are highly likely to still carry bias that influences prosecutorial discretion when implementing terrorism law, whether conscious or unconscious.

A credible Review must explicitly acknowledge the limitations of its advice and terms of reference and state that legislative change cannot, by itself, resolve discriminatory policing practices embedded within law enforcement culture or deliver the stronger protection that Aboriginal people need from terrorism laws. Without confronting the racism in enforcement dynamics, changing the statutory language risks becoming a symbolic reform rather than a substantive one.

We call on the Review to also articulate what additional non-legislative measures are needed to support laws enforcement to apply terrorism laws fairly, clearly and without discrimination. These additional measures might include:

- Mandatory anti-racism and unconscious bias training could assist in this, but training alone isn't enough and more structural reforms are needed such as independent review bodies and processes that review the use of emergency and surveillance powers on terrorism.
- The government should also collect and publish transparent data on stop and search patterns and racial disparities.
- Legal safeguards such as narrower definitions for counter-terrorism laws and narrower powers for police and law enforcement.
- Dialogue with affected communities and policy consultation before implementing new powers is also necessary.
- Broader change to government behaviour to model anti-discrimination and respect and promote social cohesion.

Yours sincerely,

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