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21st July 2026

Committee Secretary
State Development, Infrastructure and Works Committee
Parliament House
Cnr George and Alice Streets
Brisbane QLD 4000

By email: SDIWC@parliament.qld.gov.au

Dear Committee Secretary,

Re: Criminal Code (Dangerous Driving) and Other Legislation Amendment Bill 2026

Thank you for the opportunity to provide comments on the Consultation Draft of the Criminal Code (Dangerous Driving) and Other Legislation Amendment Bill 2026 (**Bill**) which proposes to amend a number of pieces of legislation including, notably, the Criminal Code, to omit existing provisions relating to the dangerous operation of a motor vehicle offence and replace the same with proposed new *Chapter 29B Dangerous driving or operation of vehicles* which is a new offence framework for dangerously driving, operating and interfering with motor vehicles and other types of vehicles. In this submission, we have outlined some concerns regarding the Bill, as drafted, including with respect to: the scope of the definition of the proposed new term "non-motor vehicles"; the introduction of a new defined term for "drug"; the scope of prior offences which are captured under the circumstance of aggravation relating to prior offences for proposed sections 334I and 334K; and the application of proposed s334K(1) (Operating non-motor vehicles dangerously) to "any place" rather than "any public place".

Preliminary consideration: Our background to comment

The Aboriginal and Torres Strait Islander Legal Service (Qld) Limited (ATSILS), is a community-based public benevolent organisation, established to provide professional

and culturally competent legal services for Aboriginal and Torres Strait Islander peoples across Queensland. The founding organisation was established in 1973. We now have 25 offices strategically located across the State. Our Vision is to be the leader of innovative and professional legal services. Our Mission is to deliver quality legal assistance services, community legal education, and early intervention and prevention initiatives which uphold and advance the legal and human rights of Aboriginal and Torres Strait Islander peoples.

ATSILS provides legal services to Aboriginal and Torres Strait Islander peoples throughout Queensland. Whilst our primary role is to provide criminal, civil and family law representation, we are also funded by the Commonwealth to perform a State-wide role in the key areas of Community Legal Education, and Early Intervention and Prevention initiatives (which include related law reform activities and monitoring Indigenous Australian deaths in custody). Our submission is informed by over five decades of legal practise at the coalface of the justice arena and we, therefore, believe we are well placed to provide meaningful comment, not from a theoretical or purely academic perspective, but rather from a platform based upon actual experiences.

Comments on the Bill

New defined term - "non-motor vehicle"

The Bill uses a new defined term called *non-motor vehicle* in proposed new Chapter 29B of the Criminal Code.

Non-motor vehicle is defined in proposed s334G as follows:

> ***non-motor vehicle*** *means a vehicle other than a motor vehicle, and includes-*
> *(a) a train, aircraft or vessel; or*
> *(b) anything else used or to be used to carry persons or goods from place to place.*

In the Bill, there are two discrete offences that relate to *non-motor vehicles*, being proposed s334K (Operating non-motor vehicles dangerously) and s334L (Interfering dangerously with the operation of non-motor vehicles).

The Explanatory Notes to the Bill state, at page 1:

> *The new framework separates offending involving motor vehicles from offending involving nonmotor vehicles (e.g. bicycles, skateboards, trains, and vessels) to recognise the particular challenges of road safety and the different risks and culpability associated with conduct involving motor vehicles and conduct involving non-motor vehicles.*

From a drafting point of view, we support the creation of a designated defined term for vehicles other than motor vehicles to aid in clarity. However, both offence provisions relating to this term of *non-motor vehicles* have serious penalties. Notably, the definition of *non-motor vehicle* appears to be very broad, in particular, with respect to paragraph (b), when considering the further context provided in the Explanatory Notes. To use one of the examples provided in the Explanatory Notes of a skateboard, the idea that someone using a skateboard dangerously for the purposes of proposed s334K(1), for example, might be exposed to a maximum penalty of 200 penalty units or 3 years imprisonment does not feel reasonable or proportionate.

We strongly recommend:
(a) removing paragraph (b) from the proposed definition of *non-motor vehicle*; and/or
(b) amending relevant provisions in the Bill to attribute lesser maximum penalties for relevant offences involving paragraph (b) non-motor vehicles.

Proposed new definition for the term "drug"

The Bill proposes to create a new defined term for *drug*, which is defined to mean:

> *(a) a dangerous drug under the Drugs Misuse Act 1986, section 4; or*
> *(b) another substance, other than alcohol, that if consumed or used by a person deprives the person temporarily or permanently of any of the person's normal mental or physical faculties.*

The Criminal Code already uses a relevant term, being *intoxicating substance*. In our view there is no need to create a new defined term that is inconsistent with the term already being used in the Criminal Code.

Accordingly, we strongly recommend that the Bill use the existing term *intoxicating substance* rather than create a new defined term for *drug*.

Aggravated dangerous driving offence – s334I(4)(d)

In the Bill, it is a circumstance of aggravation of the offence of dangerous driving, where an offender has, within the period of 5 years before the offender's conviction for the offence, been previously convicted, whether on indictment or summarily of, inter alia, a broad range of offences against the *Transport Operations (Road Use Management) Act 1995* (TORUM) as specified in that provision (see proposed s334I(4)(d)).

We have two primary objections to this proposed circumstance of aggravation:

1. We make particular reference to s79(2AA) of TORUM which is the *Offence of driving etc. while relevant drug is present in blood or saliva*. In Queensland, individuals can legally consume medicinal cannabis via a lawful prescription. After a period of time, they will no longer be under the effects of the cannabis, however, it might still be present in their saliva. In our view, it is unnecessarily punitive to include this offence within the scope of relevant prior offences for this circumstance of aggravation.

   Accordingly, we strongly recommend that s79(2AA) TORUM be removed from the list of prior offences that are capable of aggravating the proposed s334I offence pursuant to subsection(4)(d).

2. Given the significantly broad scope of proposed TORUM offences to be included in this circumstance of aggravation, we consider the 5-year timeframe to be excessive.

   We recommend that this timeframe be reduced to 2 years.

Aggravated operating non-motor vehicles offence – s334K

In the Bill, the circumstances of aggravation for the proposed s334K offence of operating non-motor vehicles dangerously include the following two discrete circumstances:

(a) if, at the time of committing the offence, the offender contravenes a range of TORUM offences as specified in that provision including s79(2AA) of TORUM (see proposed s334K(4)(a)(ii) and (iii))
(b) where the offender has, within the period of 5 years before the offender's conviction for the offence, been previously convicted, whether on indictment

> or summarily, of an offence against a broad range of TORUM offences as specified in that provision including s79(2AA) of TORUM (see proposed s334K(4)(c)).

Similar to our earlier comments with respect to the prior offences circumstance of aggravation for the s334I dangerous driving offence, we have two primary objections to the two circumstances of aggravation for proposed s334K offence outlined above.

1. Please refer to our earlier comments regarding the proposed inclusion of section 79(2AA) TORUM offence (*Offence of driving etc. while relevant drug is present in blood or saliva*) which equally apply to the relevant two circumstances of aggravation for the proposed s334K offence.

   We strongly recommend that s79(2AA) TORUM be removed from the list TORUM offences that are capable of aggravating the proposed s334K offence in subsections (4)(a)(ii) and (iii) and (4)(c).

2. With respect to the second circumstance of aggravation outlined above, given the significantly broad scope of proposed TORUM offences to be included in this circumstance of aggravation, we consider the 5-year timeframe to be excessive.

   We recommend that this timeframe be reduced to 2 years.

Application of s334K(1) (Operating non-motor vehicles dangerously) to a "any place"

Proposed s334K(1) provides as follows:

> *(1) A person who operates a non-motor vehicle dangerously at any place commits a misdemeanour. Maximum penalty—200 penalty units or 3 years imprisonment.*

In our view the use of the words "at any place" in the context of this offence is too broad. As the Bill is currently drafted, this would appear to bring within scope a child playing with their skateboard in their front yard.

We strongly recommend that the words "at any place" be replaced with the words "at a public place".

Proposed new section 334P (Particular complaints and indictments)

The Bill contains proposed new section 334P which allows a complaint or indictment to simply allege a person was under the influence of "alcohol or a drug" without specifying the particular substance/s.

The complaint/indictment must have sufficient particulars regarding the conduct alleged, any potential aggravating circumstance and the factual basis relied upon to enable a defence to be prepared.

In our view, this provision should be removed from the Bill.

Thank you for the opportunity to provide feedback on the Bill.

Yours faithfully,

Shane Duffy
Chief Executive Officer