



FROM THE PERMANENT REPRESENTATIVE

AUSTRALIAN PERMANENT MISSION  
TO THE UN GENEVA

3 March 2026

██████████  
Officer-in-charge  
Special Procedures Branch  
Office of the High Commissioner for Human Rights  
Reference: OL AUS 3/2025  
Palais des Nations  
1211 Geneva 10  
SWITZERLAND

Dear Mr ██████████

Thank you for your correspondence of 23 April 2025 in relation to a Joint Communication from the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the rights to freedom of peaceful assembly and of association (Mandate Holders).

Australia is strongly committed to protecting and promoting universal human rights. The Australian Government works to advance human rights globally through Australia's bilateral relationships, development assistance and engagement with civil society, as well as Australia's engagement in regional and multilateral fora, including the United Nations Human Rights Council and the Third Committee of the UN General Assembly.

Human rights considerations have a central role in legislative processes in Australia. For example, all legislation introduced in the NSW Parliament is subject to review by the Legislation Review Committee, which includes in its consideration whether the legislation may trespass unduly on personal rights and liberties.

*Background to the measures*

The NSW Government announced on 8 December 2024 that it would consider law reform to address activities outside places of worship that aim to intimidate people trying to attend those places to express their faith, or that prevent people from practising their faith in NSW. This announcement followed a series of acts targeting places of worship across Australia.

The NSW Attorney General, the Hon ██████████ MP, provided the NSW Parliament with a Statement of Public Interest for the Crimes Amendment (Place of Worship) Bill 2025 (NSW) (the Crimes Amendment Bill) on 19 February 2025. It states the policy's objective couched in terms of the public interest, as follows:

*Article 18 of the International Covenant on Civil and Political Rights (ICCPR) protects the freedom of religion, including the freedom of individuals to manifest their religion or belief through worship, observance, and practice. The Bill aims to ensure that people in NSW are free to practice their religion without being impeded or harassed by others.*

The Statement of Public Interest further states:

*Protecting persons seeking to practise their faith free from obstruction, harassment or intimidation can only be achieved through legislative amendment. Although some existing offences could capture some of the conduct seeking to be addressed, the Bill provides a tailored approach that ensures there are no gaps in the law.*

The Statement of Public Interest notes that the Crimes Amendment Bill was developed in consultation with a number of affected stakeholders, namely, the NSW Faith Affairs Council, the NSW Jewish Board of Deputies, the Special Envoy to Combat Antisemitism, the LGBTQI+ Advisory Council, the Law Society of NSW, the NSW Bar Association, and internal NSW Government stakeholders, including the NSW Police Force and Legal Aid NSW.

*The Crimes Amendment (Places of Worship) Act 2025 (NSW)*

The *Crimes Amendment (Places of Worship) Act 2025 (NSW)* (the Crimes Amendment Act) commenced on 3 June 2025. The amendments introduced by the Crimes Amendment Act do not prohibit lawful protest outside places of worship. Rather, the Crimes Amendment Act responds to a need to ensure that people of all faiths are able to practise their religion freely and without fear of intimidation or harassment.

The Crimes Amendment Act introduced two new offences into the *Crimes Act 1900 (NSW)* that capture intentional acts that, without reasonable excuse, block, impede or hinder a person from accessing or leaving a place of worship, as well as conduct that intimidates, harasses or threatens a person accessing or leaving a place of worship. Both offences carry a maximum penalty of 200 penalty units (\$22,000), two years' imprisonment, or both. Limiting the scope of the offence of blocking to intentional acts ensures that lawful assembly that is wholly unrelated to a place of worship or the religion practised there may, due to its vicinity, incidentally impede people from accessing the place of worship is unaffected by the amendments. "Place of worship" is defined as a building or other structure ordinarily used for worship, including churches, mosques, synagogues and temples. The definition of "place of worship" is not intended to capture places such as prayer rooms, multi-faith rooms and chapels within other buildings such as hospitals, airports and office blocks.

The Crimes Amendment Act also amended the *Law Enforcement (Powers and Responsibilities) Act 2002 (NSW)* (LEPRA) to enable a police officer to issue a move on direction to a person participating in a demonstration, protest, procession or assembly outside a place of worship.

The amendments also make clear that the offence of intentionally blocking, impeding or hindering access to a place of worship is subject to section 24 of the *Summary Offences Act 1988 (NSW)*. The *Summary Offences Act 1988* creates a framework under which protest organisers can seek authorisation to hold a public assembly. While there is nothing inherently unlawful about unauthorised public assemblies, participants in an authorised public assembly are protected from prosecution for offences that involve obstructing people

or vehicles in a public place, provided the public assembly is held substantially in accordance with parameters that have been provided to or agreed with the Commissioner of Police. Expressly stating in new section 214B that the offence of impeding access to a place of worship is subject to the *Summary Offences Act 1988* makes it clear that protections that apply to authorised public assemblies also apply to the proposed new offence.

A statutory review of the amendments must be undertaken as soon as practicable after 3 June 2027 (being two years after commencement), with a report to be tabled in both Houses of NSW Parliament by 3 June 2028. The purpose of the review will be to determine whether the policy objectives of the amendments remain valid and whether the terms of the amendments remain appropriate for the achievement of those objectives. The NSW Government considered that requiring the review to be undertaken less than two years from commencement would not provide a sufficient period of time to review the operation of the amendments.

### *Legislative scrutiny*

As noted above, the Legislation Review Committee reviews all Bills introduced and subordinate legislation tabled in the NSW Parliament. The Committee reports on whether a bill or subordinate legislation engages with the grounds of review set out under its establishing Act. These grounds include:

- trespassing unduly on personal rights and liberties;
- making rights, liberties or obligations unduly dependent on insufficiently defined administrative powers or non-reviewable decisions;
- inappropriately delegating legislative powers; and
- insufficiently subjecting the exercise of legislative power to parliamentary scrutiny.

The Legislation Review Committee's examination of the Crimes Amendment Bill is available at:

<https://www.parliament.nsw.gov.au/ladocs/digests/712/Legislation%20Review%20Digest%20No.%2025%20of%2058%20-%2018%20February%202025.PDF>.

The referral of a Bill to a Parliamentary committee is a matter for each House of NSW Parliament, pursuant to the Standing Orders of each House.

As noted above, a statutory review of the amendments must be undertaken as soon as practicable after 3 June 2027 (being two years after commencement), with a report to be tabled in both Houses of NSW Parliament by 3 June 2028.

### *Impact on human rights*

The Special Procedures Mandate Holders raised concerns in relation to the impact of the Crimes Amendment Act on the rights to peaceful assembly (article 21 of the International Covenant on Civil and Political Rights (ICCPR)), freedom of association (article 22 of the ICCPR), and freedom of opinion and expression (article 19 of the ICCPR).

As noted in the Joint Communication, each of these rights may be subject to restrictions. The permissible scope of these restrictions is outlined in each relevant article in the ICCPR.

The right to freedom of expression under Article 19 of the ICCPR may only be subject to restrictions as are provided by law and are necessary for respect of the rights or reputations of others, and for the protection of national security or of public order or of public health or

morals. Limitations must be prescribed by legislation necessary to achieve the desired purpose and proportionate to the need on which the limitation is predicated.

Pursuant to Article 21 of the ICCPR, no restrictions may be placed on the exercise of the right of peaceful assembly other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. Article 22 of the ICCPR makes similar provision in relation to freedom of association. Restrictions must be provided for by legislation (or imposed in conformity with legislation), must be necessary to achieve the desired purpose and must be proportionate to the need on which the limitation is based. The phrase 'necessary in a democratic society' incorporates the notion of proportionality.

The Crimes Amendment Act provides a legal basis for restricting the relevant rights, as required by the terms of these articles.

As further required by the terms of these articles, the introduction of the restrictions was considered by the NSW Government to be necessary for the protection of the rights and freedoms of others, and in the interests of public order and public safety.

The Joint Communication notes that the Crimes Amendment Act aims to permit restrictions on freedoms of assembly, association, and expression in order to protect the right to freedom of religion, which is provided for in article 18 of the ICCPR. The Statement of Public Interest had highlighted this, stating:

*The proposed amendments are consistent with Australia's obligation as a party to the ICCPR to protect religious freedoms.*

*The proposed amendments apply only to conduct that involves intentionally impeding people from accessing or leaving a place of worship, or harassing or intimidating such people. Consequently, any impact on the right to protest is within acceptable boundaries.*

#### *Law Enforcement (Powers and Responsibilities) Amendment (Places of Worship) Act 2025*

The *Law Enforcement (Powers and Responsibilities) Amendment (Places of Worship) Act 2025* (Law Enforcement Amendment Act) commenced on 3 December 2025.

This amendment is a response by the NSW Government to the finding of the NSW Supreme Court in *Lees v State of New South Wales* [2025] NSWSC 1209 that the expanded move on powers introduced into the LEPRA by the Crimes Amendment Act, allowing police to issue a move on direction to a person participating in a demonstration, protest, procession or assembly outside a place of worship, were invalid because they impermissibly burdened the implied freedom of political communication in the Australian Constitution.

The Law Enforcement Amendment Act repealed section 200(5) of the LEPRA and inserted a new provision designed to clarify the intention of the measure and address the constitutional invalidity identified by the NSW Supreme Court.

The Statement of Public Interest for the Law Enforcement (Powers and Responsibilities) Amendment (Places of Worship) Bill 2025 notes that the NSW Supreme Court was of the view that:

*the purpose of section 200(5) of the LEPRA, being to protect the rights and interests of persons trying to attend places of worship to express their faith, was legitimate. However, the Court found that the provision operated more broadly than was necessary to achieve this purpose, as it was not limited to conduct affecting persons accessing or attempting to leave a place of worship.*

Accordingly, under new section 200AA of the LEPRA, police officers can give move on directions to persons participating in an unauthorised demonstration, protest, procession or assembly in or near a place of worship where a person is:

- intentionally blocking, impeding or hindering a person accessing or leaving, or attempting to access or leave, the place of worship, or
- harassing, intimidating or threatening a person accessing or leaving, or attempting to access or leave, the place of worship.

The move on direction can only be given to a person engaging in this conduct.

The NSW Attorney-General's Second Reading Speech noted that:

*The New South Wales Government is acutely aware of the need for New South Wales legislation to recognise and protect key civil and political rights under Australian law and international human rights law. The Government recognises that the bill will impose some level of burden on the implied right to political communication. However, that is balanced by the legitimate purpose of the bill, being to protect people wishing to exercise their freedom of religion. As the New South Wales Government said in February when introducing the Crimes Amendment (Places of Worship) Bill 2025 into this House, there is a clear need to ensure that people of all faiths are able to practise their religion freely and without fear of intimidation or harassment. The bill achieves that.*

The challenge brought in *Lees v State of New South Wales* [2025] NSWSC 1209 did not include the offences introduced by the Crimes Amendment Act into the *Crimes Act 1900* (NSW). This aspect of the Crimes Amendment Act was therefore unaffected by the Court's decision.

I trust this information is of assistance.

Yours sincerely,



Clare Walsh  
Ambassador and Permanent Representative of Australia  
to the United Nations and to the Conference on Disarmament in Geneva