



Australian Permanent Mission  
to the United Nations  
Geneva

28 April 2026

██████████  
Officer-In-Charge  
Special Procedures Branch  
Office of the High Commissioner for Human Rights  
Palais des Nations  
1211 Geneva 10  
Switzerland

**Reference AL AUS 2/2026**

Dear Mr ██████████

Thank you for your correspondence of 27 February 2026 conveying a Joint Communication from the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967.

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. Relevantly, all legislation introduced in the New South Wales (NSW) Parliament is subject to review by the Legislation Review Committee, which considers whether the legislation may unduly trespass on personal rights and liberties.

The Australian Government's response below addresses questions raised in the Joint Communication in relation to the *Terrorism and Other Legislation Amendment Act 2025* (NSW) (the Act), which amended the *Terrorism (Police Powers) Act 2002* (NSW) (TPPA) to introduce Public Assembly Restriction Declaration (PARD) powers in NSW. However, the Australian Government notes at the outset that on 16 April 2026, the NSW Court of Appeal declared the legislative reforms which gave rise to the PARD powers unconstitutional, and therefore invalid, on the basis that they impermissibly burdened the implied constitutional freedom of communication on government and political matters.<sup>1</sup> As a result of this decision, the amendments the subject of this Joint Communication are no longer in force. The NSW Government is currently considering the decision of the NSW Court of Appeal.

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<sup>1</sup> *Jarrett v State of New South Wales* [2026] NSWCA 62

## *Background to the measures*

The NSW Attorney General, the Hon [REDACTED] MP, provided the NSW Parliament with a Statement of Public Interest for the Terrorism and Other Legislation Amendment Bill 2025 (the Bill) on 22 December 2025. The Statement of Public Interest notes that the reforms respond to the antisemitic terrorist attack perpetrated against Jewish members of the NSW community at Bondi Beach on 14 December 2025. The Statement of Public Interest notes:

*...in the aftermath of terrorist incidents, community cohesion can be fragile. Mass public assemblies, such as protests or demonstrations, may be divisive and can give rise to safety concerns, both for those participating in such assemblies, as well as members of certain community groups that may be perceived to be targeted, and those in the vicinity of large assemblies. Large gatherings may also block roads and impede police and emergency vehicles, when urgent action may be required to keep the community safe. Following the terrorist incident at Bondi Beach, community members have highlighted such assemblies and the conduct therein may inflame tensions and further fear and social disharmony, and may pose a risk to public safety.*

The Statement of Public Interest describes the policy objective of the amendments relating to PARDs as follows:

*... Public Assembly Restriction Declarations are a tool which will facilitate general limitations on public assemblies (such as protests) in a designated area that are likely to cause fear of harassment, intimidation, violence, threats to safety; or that pose a risk to community safety. This scheme furthers the public interest in ensuring safety at times of heightened risk following a terrorist incident.*

## *The Terrorism and Other Legislation Amendment Act 2025*

The relevant parts of the Act concerning PARDs commenced on 24 December 2025.

As outlined above, the Act amended the TPPA to introduce PARD powers. Where the use of special powers to investigate or prevent a terrorist act are authorised under the TPPA, the effect of the Act was that the Commissioner or Deputy Commissioner of Police, with the agreement of the Minister for Police and Counter-terrorism, could make a PARD declaration in relation to an area when satisfied that there were reasonable grounds for believing that a terrorist act was about to be, or had been, committed. A declaration was in force for an initial period of 14 days, and could be extended for no more than 14 days at a time, up to three months in total.

The Act also amended the *Summary Offences Act 1988* (NSW) to provide that public assemblies could not be authorised if the assembly was to be held, or partially held, in an area that was the subject of a PARD. The Act also amended the *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW) to provide that the usual limitations on the use of police move on powers in relation to public assemblies did not apply where an assembly took place in an area designated by a PARD.

The Act did not prohibit participation in a public assembly within the area subject to a PARD. Rather, the Act prohibited the authorisation of public assemblies within an area subject to a PARD. Participating in an unauthorised assembly is not unlawful, however participants are not

afforded the benefits of authorisation, including being protected from criminal prosecution for offences such as obstructing traffic.

The Act also provided for statutory review of the amendments introduced by the Act to be undertaken as soon as practicable after 24 December 2027 (being two years after commencement), with a report to be tabled in both Houses of Parliament by 24 June 2028. The purpose of the review would 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 Bill is available at:

<https://www.parliament.nsw.gov.au/ladocs/digests/727/Legislation%20Review%20Digest%20No.%2040%20of%2058%20-%203%20February%202026.pdf>

As noted above, the Act requires a statutory review of the amendments to be undertaken as soon as practicable after 24 December 2027 (being two years after commencement), with a report to be tabled in both Houses of Parliament by 24 June 2028.

### *Impact on human rights*

The Joint Communication raises concerns in relation to the impact of the Act on the right of peaceful assembly (article 21 of the International Covenant on Civil and Political Rights (ICCPR)), the right to freedom of association (article 22 of the ICCPR), the right to take part in public affairs (article 25 of the ICCPR), and the rights to freedom of opinion and expression (article 19 of the ICCPR). The Australian Government recognises that these are important rights in any democracy, which are enjoyed by all people in Australia.

As noted in the Joint Communication, each of these rights may be subject to restrictions. 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.

As required by the terms of these articles, the Act was prescribed by law, and restrictions on the relevant rights were 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 Statement of Public Interest indicates that consideration was given as to whether existing discretionary mechanisms concerning public assemblies would be sufficient, but it was determined that a legislative gap remained in the ability to restrict public assemblies for a limited time and the amendments in the Bill were specifically tailored to address that gap.

The Act provided for use of a PARD in limited circumstances – i.e. following a determination by the Commissioner or Deputy Commissioner of Police, with the agreement of the Minister for Police and Counter-terrorism, that there are reasonable grounds for believing that a terrorist act is about to be, or has been, committed – and subject to time limitations (as outlined above). These safeguards were included to ensure that any restriction on public assembly remained temporary, targeted, and confined to what is necessary to address the identified risk.

The Special Rapporteurs also raised concerns in relation to non-discrimination (articles 2 and 26 of the ICCPR). The Australian Government respectfully notes that the PARD powers were intended to operate based on objective determinations by the Commissioner or Deputy Commissioner, without any distinction on the basis of race, ethnicity, religion, political or other opinion, or other protected grounds. The Act would have operated within a broader statutory framework governing the exercise of public power in NSW, including the *Anti-Discrimination Act 1977* (NSW), which prohibits discrimination on the relevant grounds, and the *Multicultural NSW Act 2000* (NSW), which affirms the NSW Government's commitment to equality, inclusion, and social cohesion.

I trust this information is of assistance.

Yours sincerely



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and Conference on Disarmament in Geneva