

NOTICE OF NSWCCL 2015 ANNUAL GENERAL MEETING

Date and Venue

The 52st Annual General Meeting of the NSW Council for Civil Liberties will be held at 6pm, Wednesday 28th October 2015 in the City of Sydney Council Chamber at Sydney Town Hall.

Members are encouraged to come along to the Sydney Town Hall and participate in this important general meeting of the Council.

AGM Business

- Confirm the minutes of the 2014 AGM
- Receive the Executive's report on the year's activities and financial position.
- Financial members will discuss and decide on a proposed special resolution updating the NSWCCL Constitution. (See below for details of the resolution.)
- Financial members will also elect the new Committee and Executive members to run the Council for 2015/16.

Join us in making these decisions and stay for a drink and catch-up with other members after the formal business.

Nomination for Committee and Executive positions

Nomination forms for committee or executive positions can be found on the CCL Website. They must be returned to the Secretary by the 21st October with signatures from both the candidate and the sponsoring member.

Proposed Policy Resolutions with Notice for AGM Consideration

7.1. Counter-terrorism laws and the dangerous encroachment on citizens' fundamental rights and liberties.

Since 9/11 Australia has enacted an extensive suite of counter-terrorist laws. With more than 80 such laws already in place we appear to have the most – and some of the most anti-democratic-counter-terrorism laws in the western world.

This trend has accelerated. On the 13th October Australians were presented with the 5th tranche of counter-terrorism laws from the current Government. This included extreme proposals to extend control orders to cover 14 year old children and to expand the time for which a person can be held in detention under a preventative protection order from 6 to 28 days. These provisions apply to persons who have not been charged with any crime.

In July the Government's highly controversial Citizenship Amendment (Allegiance to Australia) Bill 2015 proposed to deprive dual citizens of their Australian citizenship in ways which are profoundly contemptuous of citizens' rights, the rule of law and the separation of judicial and executive powers. There has been community massive opposition to this Bill. NSWCCCL called for its withdrawal. Hopefully it will be amended. But the Government has flagged a further tranche of laws that will provide for the stripping of citizenship from those who are only Australian Citizens.

Contemplating these disturbing trends Professor Gillian Triggs, President of the Australian Human Rights commission has asked:

What are the options for democracy when both major parties, in government and opposition, agree upon laws that explicitly violate fundamental freedoms under the common law and breach Australia's obligations under international treaties?' (Speech to the NSWCCCL Dinner, 31/7/15)

NSWCCL considers it impossible to have effective protection of our rights and freedoms without a stronger overarching benchmark.

Resolution

i) The NSW Council for Civil Liberties reaffirms its opposition to the disturbing trend for Australian Government to respond to terrorist incidents by passing numerous counter-terrorism laws which seriously and unwarrantedly encroach on the fundamental rights and liberties of Australians to the point where they now constitute a real threat to our democratic way of life.

ii) The NSW Council for Civil Liberties considers that only a strong charter of rights can effectively prevent the current accelerating trend of unjustifiable statutory encroachment on our fundamental freedoms and rights.

iii) The Council for Civil Liberties commits to engage with other organisations and individuals to reactivate a national campaign for a strong Australian charter/ bill of rights

7.2. Rejecting the idea of 'Australian' values as relevant to citizenship rights

The NSW Council for Civil Liberties rejects the idea that there are uniquely 'Australian' values that are relevant to the determination of people's rights including citizenship rights.

7.3. Disbanding the Border Force

The dangerous conflation of border security with national security, military operations and terrorism has developed over a number of years under both Coalition and Labor Governments. The use of the navy and appointment of a senior serving military officer as head of the 'stop the

boats' operation and the imposition of total secrecy in relation to its activities were stepping stones to the recent creation of an integrated Australian Border Force under the Australian Border Force Act 2015.

In August Australians were astonished by the Operation Fortitude fiasco in Melbourne when residents were informed that ABF officers would be that day

*"positioned at various locations around the CBD speaking with any individual we cross paths with".
"You need to be aware of the conditions of your visa; if you commit visa fraud, you should know it is only a matter of time before you're caught out,"*

The immediate outrage of the community killed 'Operation Fortitude' within hours. But the event is significant for what it reveals about the prevailing culture in this organisation.

Resolution

i) The NSW Council for Civil Liberties condemns the creation of the Australian Border Force as misguided and dangerous. The para-military character and attendant secrecy of the Australian Border Force is a direct threat to open democracy, separation of powers and the rule of law in Australia. It should not be tolerated in a democracy.

ii) We call on the Turnbull Government to disband the Australian Border Force, return personnel to their former duties in the Australian Customs and Border Protection Service and Department of Immigration and distribute any law enforcement powers to the Australian Federal Police who are subject to judicial oversight and the rule of law.

iii) Failing that, we call on the Labor Opposition to reconsider its misguided policy on this and commit to take this action immediately on returning to Government.

7.4 Removing the veil of secrecy around Australia's Offshore Processing Regime

As part of its offshore processing regime, the Government has imposed secrecy on what occurs in offshore processing centres to an unwarranted extent.

The removal of these centres from public scrutiny contributes to ignorance of the Australian public of what is being done in their name, as well as a situation where those committing acts of violence or negligence in those centres against asylum seekers can behave with impunity.

As a practical matter, offshore centres are extremely difficult to access, therefore information as to what is happening in the centres largely comes from whistleblowers. With the enactment of the Border Force Act, an entrusted person may face a two year prison sentence for disclosing information about the centres, their operation or the treatment of asylum seekers. Doctors disclosing failures in health care can also be prosecuted.

We are now in a situation where in order to overcome these secrecy provisions, the Greens and Labor have decided to refer offshore centres to a Parliamentary inquiry whereby whistleblowers will be able to disclose information under Parliamentary privilege.

Resolution

i) The NSW Council for Civil Liberties condemns the secrecy provisions of the Border Force Act, which impose a potential 2 year prison sentence on entrusted persons.

ii) We call on the Turnbull government to repeal the provisions of the Border Force Act which limit the public scrutiny which should be applied to the offshore processing regime.

Proposed Special Resolution for AGM Consideration

The NSWCCCL Committee recommends that the AGM approves a resolution to amend the NSWCCCL constitution to modernize certain administrative rules to align with new technologies, to clarify definition of a committee quorum and to accommodate more realistic administrative timeframes. The proposed changes are:

- **Delete and replace Rule 19.3** to allow a more workable timetable for providing the agenda and relevant papers to the Committee. The notice of meeting requirement will continue to be 7 days (Rule 19.2) but the notice of the general business and any supporting papers requirement will be 2 days rather than the current implied 7 days.
- **Amend Rule 19.5** to include a more precise definition of the quorum required for a Committee meeting and clarify that members may attend by agreed forms of communications technology.

The current specification is 'one quarter of Committee members.' There are 26 possible members. The current formulation results in a quorum of 6.5 members. The reformulation is for the more sensible requirement of smallest integer greater than one quarter.

In addition it is proposed to formalise the current de facto acceptance of attendance for the purpose of a quorum to include members attending either in person or by agreed communication technology when personal attendance is difficult.

- **New Rule 19.11** to allow attendance at Committee meetings by means afforded by communication technology, without the need for physical presence.

This rule is to update the Constitution to align better with communication technology and allow members to attend Committee meetings utilising such technology when they are faced with difficulties in attending meetings in person. This has been accepted as de facto policy for several years with Committee members using either tele or video conferencing technology to participate in meetings.

The Committee is of the view that in-person attendance should remain the normal mode of attendance.

- **Amend Rule 22** to clarify that members may attend Executive meetings by agreed forms of communications technology for the purpose of a quorum. This will formalise the current de

facto acceptance of attendance at Executive to include members attending either in person or by agreed communication technology when personal attendance is difficult.

- **Amend Rule 36** to allow notices to be given by email or other electronic address and to remove the reference to document exchange

Special Resolution to be Moved at The AGM

RESOLVED THAT The Constitution of the Council be and is hereby amended as follows:

1. By deleting Rule 19.3 and replacing it with the following:

“In addition, the Secretary will give notice of the general nature of the business to be transacted at the meeting at least two (2) days before the meeting, together with such supporting documents as may be relevant. No business other than that business shall be transacted unless the Committee agrees to treat such other business as urgent.”

2. In Rule 19.5 by inserting the following words before “one quarter”:

“The smallest integer number greater than” and by inserting at the end: ‘and will include members who are present either in person or by any communications technology approved by the Committee.’

3. By including an additional Rule 19.11 as follows:

- “Meetings of the Committee will preferably be held in person but the Committee may allow Committee members to attend meetings by using any communication technology that is agreed to by the Committee provided that all members participating are able to hear all other participating members and are able to address all members.*
- The Committee’s agreement may be a standing (ongoing) one.*
- A Committee Member participating in a meeting by telephone or audio or audio visual communication will be taken to be present in person at that meeting.*
- A meeting by telephone or audio or audio visual means is to be taken to be held at the place determined by the Chairperson.”*

4. Amend Rule 22.2 by adding ‘and will include members who are present either in person or by any communications technology approved by the Committee.’

5. Delete Rule 36 and replace it with the following:

(1) Notice to the Council

Written notice or any communication under this Constitution may be given to the Council, the Committee members or the Secretary by:

- (a) delivering it to the Council’s principal place of administration;*
- (b) posting it to the Council’s principal place of administration or to another address chosen by the Council for notice to be provided;*
- (c) sending it to an email address or other electronic address notified by the Council to the members as the Council’s email address or other electronic address;*

(d) sending it to the fax number notified by the Council to the members as the Council's fax number.

(2) Notice to members

Written notice or any communication under this Constitution may be given to a member:

- (a) in person;*
- (b) by posting it to, or leaving it at the address of the member in the register of members or an alternative address (if any) nominated by the member for service of notices;*
- (c) sending it to the email or other electronic address nominated by the member as an alternative address for service of notices (if any);*
- (d) sending it to the fax number nominated by the member as an alternative address for service of notices (if any); or*
- (e) if agreed to by the member, by notifying the member at an email or other electronic address nominated by the member, that the notice is available at a specified place or address (including an electronic address).*

(3) When notice is taken to be given

A notice:

- (a) delivered in person, or left at a the recipient's address, is taken to be given on the day it is delivered;*
- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs;*
- (c) sent by email, fax or other electronic method, is taken to be given on the business day after it is sent; and*
- (d) given under Rule 36(2)(e) is taken to be given on the business day after the notification that the notice is available is sent.*

FURTHER RESOLVED THAT the Secretary be and is hereby authorized to update the records of the Council and notify any regulatory authorities accordingly.



Dr Lesley Lynch
Secretary NSW Council for Civil Liberties

6th October 2015