



New South Wales
Council for
Civil Liberties

NSW COUNCIL FOR CIVIL LIBERTIES

STREET ADDRESS: SUITE 203, 105 PITT ST, SYDNEY, NSW 2000 AUSTRALIA

POSTAL ADDRESS: PO BOX A1386, SYDNEY SOUTH, NSW 1235

e: office@nswccl.org.au

p: 02 8090 2952

f: 02 8580 4633

www.nswccl.org.au

21/06/2017

NSWCCL STATEMENT ON TERRORISM LEGISLATION AMENDMENT (POLICE POWERS AND PAROLE) BILL 2017

- NSWCCCL is deeply disturbed that proposed legislation expanding police powers to use lethal force is being rushed through Parliament today with gross disregard for proper and careful consideration of the Bill by the Parliament and the community.

This is a profoundly important issue in a democracy and deserves a more responsible process. That includes a thorough consideration of the detail of the Bill.

Without this detailed consideration from Parliament, the legal community and indeed the public, the Bill is likely to have unintended consequences and may lead to less rather than improved community safety.

- NSW Police already have the power to use lethal force when there is an imminent or immediate threat to life or serious injury. There have been numerous incidents of NSW police using lethal force without fear of any undeserved legal consequences.
- This existing trigger is adequate and appropriate for authorising police to shoot to kill (if necessary) and should continue to be the sole trigger.
- The Bill proposes a less restrictive trigger in a situation which “is or **is likely** to be a terrorist act’. Experience shows the difficulty in making a rapid determination as to whether an incident is an act of terrorism. Assessing whether or not it is likely to be (or to become) a terrorist act imposes an additional layer of difficulty. Incidents which are not in any way terrorist related may very well be mistakenly ‘declared’ by the Police Commissioner.
- In this context, police will be able to use lethal force that is ‘reasonably necessary, in the circumstances as the police officer perceives them. ..to defend any persons threatened by the terrorist act or to prevent or terminate their unlawful deprivation of liberty”
- This introduces a wider degree of discretion to police for the right to shoot to kill and should be thoroughly considered for its possible implications before being passed into law.
- The NSWCCCL notes the Coroner’s important recommendation that the provisions of the Terrorism (Police Powers) Act 2002 should be amended to ensure that police



New South Wales
Council for
Civil Liberties

NSW COUNCIL FOR CIVIL LIBERTIES

STREET ADDRESS: SUITE 203, 105 PITT ST, SYDNEY, NSW 2000 AUSTRALIA

POSTAL ADDRESS: PO BOX A1386, SYDNEY SOUTH, NSW 1235

e: office@nswccl.org.au

p: 02 8090 2952

f: 02 8580 4633

www.nswccl.org.au

officers have sufficient legal protection to respond to terrorist incidents in a manner most likely to minimise the risk to members of the public. (R 24)

This proposed legislation goes well beyond what is necessary to address the problems the Coroner identified. They related to clarity of discretionary powers, police understanding of these and legal liability.

- NSWCCCL opposes this Bill in its current form as unnecessary and potentially dangerous.

Contacts in relation to this statement

Stephen Blanks President NSWCCCL

0414448654

Dr Lesley Lynch Vice President NSWCCCL

0416407508
