3 March 2022

Senator the Hon Kristina Keneally,
Shadow Minister for Immigration and Citizenship
Via email: senator.keneally@aph.gov.au

Dear Senator,

The NSW Council for Civil Liberties was concerned to learn that the ALP has decided to support the *Migration Act (Strengthening the Character Test) Amendment Bill* after rejecting it twice for good reason in its earlier manifestations in the Senate.

We understand that you had political reasons for doing so, but the bill continues to have the same faults it has had all along, albeit with two changes that partially, but do not fully, answer a couple of the problems. And a new one has emerged: under paragraph 5C (3) (vii), a person who 'has been (indirectly or directly) knowingly concerned in or a party to the commission of an offence that is a designated offence' will fail the character test. This is a totally new idea, to the best of our knowledge, and is unacceptably broad and vague.

To recap briefly, the bill makes failure of the character test automatic, if a person has been convicted of certain offences, even though the penalty imposed by a court is less than twelve months, or when there is no penalty at all. But for all of the offence groups covered by the bill, it is possible for a person to have infringed in only a minor way. An example would be a person subject to an AVO who tries, by email, to find out if a Christmas present for one of his children would be appropriate. And it is possible for a person to infringe in a major way, yet their actions be of low culpability (such as when a person commits manslaughter or murder in a justified voluntary euthanasia case).

Assuming, as now seems certain, the bill passes, we call on you, if the ALP wins government in the forthcoming election, to set up an inquiry into all the 'god powers' in the Migration Act, and into the sections concerned with asylum seekers and visa cancellation, with an eye to substantially redrafting the act.

Yours sincerely,

Pauline Wright
President
NSW Council for Civil Liberties