

29 October 2022

Commissioner Karen Webb PSM  
A/Assistant Commissioner Paul Dunstan  
Detective Inspector Phil Hallinan  
NSW Police Force – Strike Force Guard III

By email only:

CC:

Hon. Mark Speakman SC MP  
Attorney General

Hon. Paul Toole MP  
Minister for Police

By email only:

Dear Commissioner,

I write on behalf of the members and supporters of the NSW Council for Civil Liberties (NSWCCL) to draw your attention to recent police visits to climate activists' homes in the lead up to the International Mining and Resources Conference (IMARC) in Sydney over 2 to 4 November 2022. NSWCCL expresses alarm in response to these intimidatory pre-emptive police tactics, which must only be intended to stifle freedom of assembly and expression.

NSWCCL understands that activists from a range of groups and networks have received unannounced visits by police to their homes over recent days and nights. Such visits have occurred in NSW, Victoria and Queensland. NSWCCL understands that individuals have been questioned about whether they plan on attending any protests connected with IMARC or whether they have any information regarding any planned protest at IMARC. The purpose of these visits, it appears, is to pressure people against participating in peaceful protest.

NSWCCL considers that such proactive policing is not only unacceptable but also oppressive as an attempt to stifle freedom of assembly and expression. The right to freedom of expression, assembly, and association are fundamental human rights, as recognised in Articles 21 and 22 of the *International Covenant on Civil and Political Rights* and Article 8(1)(a) of the *International Covenant on Economic, Social and Cultural Rights*. Australia has ratified both of these Covenants and is bound to comply with their terms. NSWCCL calls on NSW Police to cease this practice of visiting activists in their homes immediately and to respect the rights of individuals to free assembly and expression.

NSWCCL is particularly concerned that some activists have reportedly been told by NSW Police that protests are unlawful unless a Form 1 has been submitted, and that activists attending any protest activity could be arrested for simply attending the protest. With the greatest respect, neither of these propositions are correct. Of course, offences can be committed over the course of a protest, and such offences can be characterised in a wide variety of ways. But peaceful protest is not unlawful in NSW (even in the absence of a Form 1). NSWCCL calls on NSW Police to cease any practices which assert that this is the case, forthwith.

In his second reading speech on the Roads and Crimes Legislation Amendment Bill 2022, the Attorney General stated that *“the bill in no way seeks to impose a general prohibition on protests. The Government supports the rights of all individuals to participate in lawful protest. Freedom of assembly and speech have long been recognised by Australian courts as important rights that are integral to a democratic system of government.”* Regrettably, since the bill has passed NSWCCCL has been made aware of escalating conduct by the NSW Police Force which runs counter to Attorney General’s comments to parliament.

Accordingly, NSWCCCL calls on the NSW Police Force to:

- 1) Immediately cease the practice of unannounced visits to the homes of climate activists with the intention of intimidating them from engaging in free expression or assembly; and,
- 2) Cease discussion of protest which describes it as inherently illegally and something which can only occur when a Form 1 has been submitted.

In June 2022, NSWCCCL and a number of other civil society organisations called on you to act ‘responsibly, with integrity and respect for human rights’ with respect to activists exercising their rights to free assembly and expression, we again urge you to do so.

Please note that a copy of this letter will be published on our website.

Yours sincerely,

Josh Pallas  
President