

ITEM 18

NOTICE OF MOTION - COUNCILLORS DEIDRE STUART, KIT DOCKER AND JESS WHITTAKER - THE RIGHT TO PEACEFUL PROTEST IN THE AFTERMATH OF 9 FEBRUARY PROTESTS AGAINST THE VISIT OF ISRAELI PRESIDENT HERZOG

Councillors Deidre Stuart, Kit Docker and Jess Whittaker have submitted the following Notice of Motion –
“We formally move that Wollongong City Council –

- 1 Note with serious concern, reports and video evidence arising from protests in Sydney on 9 February 2026 at Town Hal demonstrating:
 - The kettling of protesters and use of force by NSW Police against people attempting to leave protest areas.
 - Protesters being chased and charged at by NSW Police.
 - A Muslim prayer group being set upon by NSW Police while engaged in peaceful religious observance.
 - Elected representatives and Members of Parliament being assaulted by NSW Police.
 - NSW Police pepper-spraying of protesters in the face and the indiscriminate pepper-spraying of a crowd that included vulnerable older people and children.
 - Pushing, dragging, punching and beating of people by the NSW Police (including at times people already on the ground or with their hands up) resulting in injury.
- 2 Acknowledge the distress, fear and trauma experienced by community members as a result of the policing of protests in Sydney and recognises the damaging impact this has had on community trust and social cohesion.
- 3 Affirm the internationally recognised fundamental right of individuals to peaceful protest and the right of the people of the City of Wollongong to assemble and peacefully protest, without fear of violence, intimidation or discrimination by state authorities.
- 4 Note with serious concern, that since 2022, anti-protest laws enacted in NSW have eroded these democratic rights to protest.
- 5 Welcome the decision that the Law Enforcement Conduct Commission will investigate the numerous reports of excessive and indiscriminate use of force by NSW Police and that these events will be examined through appropriate independent processes, and that the findings and outcomes of this examination will be made transparent and publicly available.
- 6 Acknowledge that policing is a very difficult yet essential job in our society, and that many NSW police officers undertake their work with high levels of professionalism and integrity and care towards the community they serve, and that these officers may also feel very upset and let down by what they have witnessed.
- 7 The General Manager write to the Hon. Chris Minns, Premier of NSW and the Hon. Yasmin Catley MP, NSW Police and Counter terrorism Minister conveying Council’s concerns and resolution and requests an urgent review of legislation that stifles legitimate peaceful protest.
- 8 A copy of this resolution be forwarded to the NSW Police Commissioner, Local Area Police Command and local Members of Parliament.”

Background provided by Councillors Stuart, Docker and Whittaker:

Members of our Wollongong community were among those who attended the protest expressing dissent against the visit to Australia by Israeli President Isaac Herzog in Sydney on 9 February 2026. Sydney is our nearest major city, and a site of political, cultural and civic life for many Wollongong residents.

Wollongong residents who attended the 9 February 2026 Sydney protest report shock, distress, fear and decreased trust in state authorities. Many others in our community are reeling after seeing photographs and videos of violence enacted upon protesters in mainstream media and on social media. For some individuals or communities in our city who have already experienced state violence and surveillance, this

event may be traumatic with an impact extending beyond the individual to affect families, cultural safety and long-term community wellbeing.

Given Sydney's proximity and significance to Wollongong, and the regular movement of residents between the two cities, policing practices in Sydney directly affect community confidence, perceptions of safety and trust in public institutions here within Wollongong. This event has had a chilling effect.

Our Council's Community Strategic Plan *Our Wollongong, Our Future 2035* commits our city to a *healthy, respectful and inclusive community* on Dharawal Country. Council has an important leadership role in affirming democratic participation and acknowledging community harm, even where policing sits outside Council's direct control.

We note that the protest on 9 February 2026 was both legitimate and legal, even despite the swathe of anti-protest laws passed in NSW since 2022: *The Roads and Crimes Legislation Amendment Act 2022*, *The Crimes Amendment (Obstructing a Railway) Act 2024*¹, *The Crimes Amendment (Places of Worship) Act 2025*² and *The Terrorism and Other Legislation Amendment Act 2025*³.

According to the United Nations Office of the High Commissioner on Human Rights:⁴

Everyone has the right to freedom of peaceful assembly. The right of peaceful assembly includes the right to hold meetings, sit-ins, strikes, rallies, events or protests, both offline and online. It serves as a vehicle for the exercise of many other rights guaranteed under international law, with which it is linked intrinsically and that form the basis for participating in peaceful protests. In particular this concerns the rights to freedom of expression and to take part in the conduct of public affairs.

In an Amnesty International-hosted webinar on 26 February 2026, Professor Ben Saul from the University of Sydney, who is the United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism expanded on this topic:⁵

International human rights law protects the right of peaceful assembly, and relatedly freedom of expression which are fundamental rights whose protection is recognised as essential to democracy, political inclusion and important to the rule of law, and peacefully resolving differences among people in society. Political protest and speech enjoy the very highest protection of all speech under international law. Governments have an obligation under international treaty law and customary law to allow protest to take place without unjustified interference. Protests must be peaceful, which means an absence of widespread and serious violence to people and property. Of course, riots get no protection under international law. Otherwise, protests can only be restricted by a law where it's necessary and proportionate to protect vital interests, and those are listed in the International Covenant on Civil and Political Rights to include public interest like national security, public safety, public order, public health, or the rights and freedoms of others. These are high thresholds, interpreted by the United Nations Human Rights Committee and other authoritative human rights bodies. ...

Blanket bans on particular expressions ... are not permitted under international law, unless ...

The right to protest cannot be restricted merely because a protest would disrupt vehicles or pedestrians ...

The right to protest also means that protesters have a right to choose where they want to protest so they can reach their target audience or protest at a place that is important to their purpose. There can't be a blanket ban on all assemblies in a large city or in all public places or in large parts of a city, because that is presumptively disproportionate. ...

Proportionality requires that the least intrusive restriction must be used. So if authorities are concerned about some troublemakers amongst a protest that is otherwise peaceful, you can't impose restrictions on the whole protest, you should instead take law enforcement action against

¹ <https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=18682>

² <https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=18698>

³ <https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=18853>

⁴ <https://www.ohchr.org/en/peaceful-assembly> (accessed 10/03/2026)

⁵ Edited slightly for brevity.

those individuals ... so that you don't excessively affect the rights to protest of all of the law-abiding innocent protesters. ...

The laws passed at the end of last year expose protesters to move-on directions and prosecution merely for obstructing traffic or pedestrians in clear violation of international law, in my opinion.

...

The problem with the way these restrictions were applied was that they seemed to assume that every protest critical of Israel would be a risk to community safety. Now, the many peaceful protests over the last two years involving hundreds of thousands of Australians obviously disprove that prejudice. ...

No person has a right to be shielded from political ideas they do not like. ...

Blanket restrictions on protest unjustifiably stigmatize all protestors as somehow risks to public safety, particularly when the restrictions are said to be necessary in a counter-terrorism context after the Bondi attack.

Protest against Israel has nothing to do with the Bondi attacks or with terrorism. ...

Now, blanket restrictions on all protests fail to examine the circumstances of each planned future protest, each of which has its own risk profile and which international law requires to be individually examined. By preventing protests from being authorising under the Form 1 application process (for all its faults as already mentioned) the laws also counter-productively impeded constructive collaboration between police and organizers, which is precisely designed to mitigate any possible risks or concerns that the authorities might have about the route of the march or its conduct. ...

These restrictions in NSW applied to most of Sydney for significant periods, Australia's largest city, has unjustifiably restricted the rights of 5.5 million Sydneysiders who are not terrorists or anti-Semites or who may wish to protest about things entirely unrelated to Palestine or Israel. The law has restricted all protests, regardless of the cause, completely unrelated to the Bondi terrorist attack or any genuine safety concerns related to it.... The threat of arrest and prosecution under counterterrorism law has a major chilling effect on anyone thinking about protesting for any cause, further undermining liberty and democracy across our society.

While the laws formally applied to all protests in this blunt way, in my opinion, they nonetheless did discriminate against pro-Palestine political opinion. They primarily targeted the assumed risks to community safety of protests criticising Israel in the absence of any apparent genuine serious threats by those protests in order to protect the feelings of other groups. Now, these unjustified restrictions on democratic freedoms, as was clearly seen during the visit of the Israeli president, are themselves stimulating social division and political exclusion, the things the government said it wanted to avoid, factors which also, by the way, risk making protests more, not less, unruly.

Under international law, the right to protest is particularly important for marginalised groups and special efforts must be made by the authorities to protect the right to protest of groups that have been subjected to discrimination, and those include the victims of Israeli violations in Palestine whose families live here in Australia and who deserve respect and a political voice and who should not be stigmatized as terrorists.

Peaceful protest, freedom of assembly, freedom of belief, and religious observance are fundamental democratic freedoms and essential pillars of social cohesion in a multicultural society.

For our city to have a *healthy, respectful and inclusive community* it is important that we recognise and respect the role of peaceful protest in ensuring all people feel safe and can engage in civic life, and that we stand up for our internationally recognised human rights.