

Ms Gina Romero
Special Rapporteur on the rights to freedom of peaceful assembly and of association
Office of the United Nations High Commissioner for Human Rights
Palais des Nations
8, Av. de la Paix 14
1202 Geneva
Switzerland

Via email: hrc-sr-freeassembly@un.org

17 September 2025

Dear Ms Romero

Re: Erosion of the right to peaceful assembly in New South Wales, Australia

We write from the Human Rights Law Centre, an independent civil society organisation based in Australia dedicated to protecting and promoting human rights, including the right to peaceful assembly and association.

We hold ECOSOC accreditation with the United Nations, enabling us to engage directly with your mandate.

We have previously written to you to raise our concerns about the growing restrictions on peaceful assembly in Australia. We now write to provide updated information specifically in regard to restrictions on this right in the state of New South Wales after an incident which occurred on 27 June 2025 in which, Hannah Thomas, a 35-year-old woman, was severely injured while she was engaging in a peaceful assembly.

We are assisting Ms Thomas for the purpose of this communication.

We urge you to make a formal communication to the Australian Government asking it to explain how it is upholding its obligations under the *International Covenant on Civil and Political Rights (ICCPR)* in light of Ms Thomas's injury and the increasingly severe and disproportionate restrictions of the right to peaceful assembly in New South Wales.

On 27 June 2025, Hannah Thomas instructs that she sustained severe injuries to her right eye, caused by a police officer, and may never regain sight in that eye after being violently arrested at a peaceful pro-Palestine protest in Sydney.

This event has also been [reported extensively in Australian media](#).

Ms Thomas was one of roughly 60 people gathered outside a facility that is alleged to manufacture and supply components for airplanes flown by the Israeli Defence Forces in its campaign in the Occupied Palestinian Territories. The manufacturer has denied these claims.¹

The New South Wales Police Service (**NSW Police**) declared the peaceful gathering an ‘unauthorised protest’ - presumably because organisers did not seek prior police approval via the public assembly notification system in effect in the state of New South Wales.

The Assembly Notification Scheme in New South Wales

The assembly notification system in New South Wales, commonly known as the ‘Form 1’ system, is contained in Part 4 of the *Summary Offences Act 1988* (NSW).²

The Form 1 system allows assembly organisers to provide advance notice to NSW Police of an intended public assembly. Under the notification system, the outcome of a Form 1 is either that the assembly is classified as an ‘authorised public assembly’ or that it is ‘not an authorised public assembly’.

An assembly is deemed to be an authorised public assembly if one of three possibilities occurs:

- NSW Police does not oppose the assembly after being notified;³
- NSW Police initiates legal proceedings against organisers and a court does not issue a prohibition order over the assembly, provided that NSW Police were notified seven days or more before the proposed date of the assembly;⁴ or
- An organiser initiates legal proceedings and a court issues an authorisation order for the assembly. An organiser may initiate proceedings in a court if NSW Police were notified less than seven days before the date of the assembly and NSW Police has not notified the organiser that they do not oppose the holding of the assembly.⁵

If an authorised public assembly is held substantially in accordance with the particulars provided to, or amended by, agreement with NSW Police, participants are protected from prosecution for offences relating to obstructing any person, vehicle or vessel in a public place.⁶

The designation of an assembly as being ‘authorised’ or not can be misleading in this context. An assembly that is not authorised is not unlawful, and participation in it is not, of itself, a criminal offence. An ‘authorised public assembly’ is one in which participants are protected from prosecution for obstruction-related offences, while an assembly that is not authorised does not carry that same protection.

The New South Wales Supreme Court has recognised that the terminology of “authorised” and “unauthorised” in the *Summary Offences Act* is “particularly curious” and “something of a misnomer”.⁷ The Court has also cautioned that using these terms in legislation may give the misleading impression to the public that a court can withdraw the right to peaceful assembly via the Form 1 system by not authorising an assembly, which it cannot.⁸

While participation in an assembly that is not authorised remains lawful, the classifying of an assembly as ‘not authorised’ has practical consequences under the *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW) (**LEPRA**).

Under section 200(4) of LEPRA, NSW Police can give directions, including directions to disperse to participants obstructing traffic if an assembly is not authorised, or it is not being held substantially in accordance with its authorisation.

¹ ABC News, ‘NSW Police Declare Hannah Thomas’s Injury during Protest Arrest a “Critical Incident”’ *ABC News* (online, 30 June 2025) <https://www.abc.net.au/news/2025-06-30/nsw-police-greens-hannah-thomas-protest-critical-incident/105478636>.

² *Summary Offences Act 1988* (NSW) Sect 23.

³ *Summary Offences Act 1988* (NSW) Sect 23(1)(f).

⁴ *Summary Offences Act 1988* (NSW) Sect 23(1)(f)(i), Sect 25(1).

⁵ *Summary Offences Act 1988* (NSW) Sect 23(1)(f)(ii), Sect 26.

⁶ *Summary Offences Act 1988* (NSW) Sect 24.

⁷ *Commissioner of Police v Gabriel* [2004] NSWSC 31 at [1] and [3]

⁸ *Commissioner of Police v Allen* (1984) 14 A Crim R 244 at 245.

Under section 200(5) of LEPR, NSW Police may give directions in relation to an assembly that is not an authorised public assembly occurring in or near a place of worship. A failure to move-on or disperse after being instructed by a police officer is an offence.

These powers permit, in effect, the dispersal of any public assembly that is not authorised by NSW Police via a Form 1; NSW Police exercise a decisive gatekeeping role over which assemblies are protected against prosecution for obstruction offences and which are not.

This dynamic sets the context for how the notification scheme in New South Wales now operates.

The assembly notification scheme is being used as protest authorisation system

While the Form 1 system was originally intended to help facilitate peaceful assemblies in public spaces through co-operation between organisers and NSW Police,⁹ the severe penalties that are attached to obstruction related offences have effectively turned it into a de facto assembly authorisation system.

While the Form 1 system is, strictly speaking, voluntary, in practice the scheme practically forces organisers to seek police approval for assemblies in public space or risk financially ruinous penalties, lengthy terms of imprisonment, or both, for obstruction related offences.

For example, the *Roads and Crimes Legislation Amendment Act 2022* (NSW) provides penalties for up to AUD\$22,000 or two years imprisonment, or both, for conduct that causes disruption or obstruction to major roads, runnels, bridges, railway stations, ports or infrastructure facilities, unless the conduct causing the obstruction forms part of industrial action, an industrial dispute or campaign.

Likewise, the *Crimes Amendment (Obstructing a Railway) Act 2024* (NSW) imposes penalties of up to AUD \$22,000- or two-years' imprisonment for obstructing a railway or a tramway, again with an exception for industrial action, an industrial dispute or campaign.

Both laws exempt industrial action, effectively protecting some assemblies over others and implicitly recognising that industrial assemblies may legitimately cause obstruction, while other assemblies must seek NSW Police authorisation to avoid prosecution for obstruction offences.

Taken together, the Form 1 system and NSW Police powers under LEPR mean the nominally voluntary Form 1 notification scheme operates as an authorisation regime.

In New South Wales, if an assembly is not authorised by NSW Police, participants and organisers could face severe obstruction penalties, and the forced dispersal of their assembly. Because Form 1 notices are lodged with NSW Police at first instance, they effectively decide which assemblies receive statutory protections and which do not and it is unclear as to how, if at all, they consider their human rights obligations when making these decisions.

Recent decisions by NSW Police to oppose assemblies

In October 2024, NSW Police refused a Form 1 lodged by Jews Against the Occupation and the Palestine Action Group and applied to the New South Wales Supreme Court to stop a planned assembly calling for peace in Palestine, citing safety and crowd risks, including the presence of several large “flower pots” at the site of the proposed assembly. NSW Police withdrew the application and the assembly on 6 October 2024 and a stationary vigil on 7 October 2025 went ahead. These events follow nearly a year of largely peaceful protests and vigils in Sydney by the Palestine Action Group calling for an end to the violence in Palestine.¹⁰

On 2 August 2025, the New South Wales Supreme Court in *Commissioner of Police v Lees*, refused the NSW Police bid to not authorise an assembly organised by the Palestine Action Group which involved a march from the central business district of Sydney across the Sydney Harbour Bridge. NSW Police argued that the Court should not authorise the assembly due to public safety and planning concerns (short notice, uncertain numbers, traffic disruption and emergency service access risks), but the Court held that an assembly being disruptive alone was not determinative and that failing to authorise the assembly would not stop the assembly from happening but rather strip its legal immunity from obstruction charges. The Court also found that in any event

⁹ *Commissioner of Police v Gabriel* [2004] NSWSC 31 at [1].

¹⁰ NSW Council for Civil Liberties, “Media Statement: Flower pots are not a threat to public safety” (Web Page, 3 October 2024) https://www.nswccl.org.au/protect_protest1

NSW Police retained extensive powers, whether or not the assembly was authorised by the Court, to ensure the safety of participants and the broader community.¹¹

Reports indicate that NSW Police opposed the Australian Sikh Association's annual *Nagar Kirtan* street parade in Sydney on 24 August, citing anticipated crowd numbers in the low thousands, public safety and crowd control risks, and alleged significant traffic and public transport impacts from the proposed road closures, including emergency access concerns, despite the parade having been held annually for at least 20 years with very little incident. It has been reported that NSW Police argued, in opposing the assembly, that large gatherings on public streets increase the risk of accidents or injuries, particularly if unexpected events occur, and that the scale and location of the march would cause significant issues for transport, including buses.¹²

These recent examples show how NSW Police are using the Form 1 process and allied powers not to facilitate but to control and restrict assemblies, often on tenuous grounds.

The consequences of this approach are seen most starkly in the case of Ms Thomas, where the absence of a Form 1 was used as the basis for dispersal and arrest, with serious consequences for her safety and the enjoyment of her human rights.

Hannah Thomas' arrest and injury

In Ms Thomas's case, NSW Police appear to have relied on the absence of a Form 1 to issue move-on orders to participants under the LEPR. Ms Thomas was subsequently arrested for failing to comply with a move-on order outside of the manufacturing facility in question.

Ms Thomas was charged with the following offences:

1. Hinder/Resist Police, s 60(1AA) *Crimes Act 1900* (NSW);
2. Fail to Comply with Direction to Disperse, s 87MA(4) *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW); and
3. Fail to Comply with Direction, Part 14, ss 197, 199 *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW).

The charge of *Fail to Comply with Direction to Disperse, s 87MA(4)* was laid under a rarely used emergency anti-riot power in Part 6A of LEPR, which was introduced in 2005 to address 'large-scale public disorder'. Unlike the four other people arrested at the same protest, she alone was charged under this extraordinary power, which requires authorisation by an officer with the rank of Assistant Commissioner of Police, or higher.

All three charges were ultimately withdrawn by NSW Police on 9 September 2025.¹³

Ms Thomas instructs that, based on information considered by her legal team, including police body-worn camera footage, she was punched in the face by a male police officer during her arrest.

Her injury has since been declared a 'critical incident' by New South Wales Police, a classification that requires a formal investigation when police actions result in a person's death or serious injury. Under the current framework, NSW Police themselves are responsible for investigating critical incidents, with the new South Wales Law Enforcement Conduct Commission (LECC) providing oversight.

The LECC's role during critical incidents is to monitor the NSW Police investigation, by attending the scene where possible, reviewing documents, and making recommendations, but it does not conduct the investigation itself.¹⁴

¹¹ *Commissioner of Police (NSW Police Force) v Lees* [2025] NSWSC 858.

¹² David Barwell, 'Annual Street Parade Blocked by Police Due to Crowd Safety Fears', *Sydney Morning Herald* (Web Page, 14 August 2025) <https://www.smh.com.au/national/nsw/annual-street-parade-blocked-by-police-due-to-crowd-safety-fears-20250814-p5mnob.html>

¹³ Jamie McKinnell, "NSW Police drop charges against former Greens candidate Hannah Thomas, who was injured during arrest", *ABC News* (online), 9 September 2025 <https://www.abc.net.au/news/2025-09-09/charges-against-hannah-thomas-dropped-court/105751884>

¹⁴ Law Enforcement Conduct Commission (NSW), *Critical Incident Monitoring* (Web Page, 2025) <https://www.lecc.nsw.gov.au/oversight/critical-incident-monitoring>.

There does not appear to be any requirement for NSW Police or the LECC to assess the incident against human rights standards, including Australia's obligations under the ICCPR. It is not yet known when this investigation will begin.¹⁵

The actions of NSW Police appear inconsistent with Australia's obligations under the ICCPR

We consider that the actions of NSW Police in relation to Ms Thomas, as well as the broader legal framework applied to assemblies in New South Wales, to be inconsistent with Australia's obligations under article 21 of the ICCPR, as elaborated in *General Comment No. 37 (GC 37)*.

Notification regimes, where they exist, must facilitate, not license, the exercise of the right. Having to apply for permission to assemble undercuts the idea that peaceful assembly is a fundamental right. Of course, in certain circumstances notification may be required to the extent necessary to help authorities facilitate assemblies.¹⁶

As per GC 37, a failure to notify authorities cannot, by itself, render participation unlawful, justify dispersal or arrest, or trigger undue sanctions; authorities remain obliged to facilitate and protect even non-notified assemblies.

GC 37 is clear that notification systems must not operate as de facto permission schemes. Furthermore, law enforcement agency planning should enable assemblies to proceed as intended and include preparedness for assemblies that are not notified in advance.¹⁷

In New South Wales, the Form 1 regime functions in practice as a de facto authorisation system.

NSW Police act as gatekeepers over which assemblies are authorised and which are not, thereby determining whether participants have protection from obstruction offences. There is no indication that authorisation decisions or operational planning by NSW Police are oriented to facilitating the enjoyment of the right to peaceful assembly; reliance on authorisation status to justify dispersal and sanctions suggests the opposite. This is inconsistent with GC 37's guidance that notification systems not operate as permission schemes, that failure to notify not be used to disperse or penalise, and that authorities plan to facilitate assemblies, including non-notified ones

Furthermore, the applicable offences and police powers in relation to assemblies must be clear and precise and not confer sweeping discretion on authorities.

Under GC 37, restrictions must be 'provided by law', be sufficiently precise to enable people to regulate their conduct, and must not confer unfettered or sweeping discretion on those enforcing them. Any criminal or administrative sanctions linked to assemblies must be proportionate, non-discriminatory, and not based on ambiguous or overbroad offences, like those in the *Roads and Crimes Legislation Amendment Act 2022* (NSW), nor should they suppress conduct protected by the ICCR.¹⁸

In New South Wales, broad obstruction offences and NSW Police powers in LEPRA are drafted and applied in ways that create uncertainty and confer wide police discretion to authorise or disperse participants often without clear justification, departing from the precision and proportionality that GC 37 requires.¹⁹

Finally, accountability is essential for instances of police misuse of force in the context of assemblies.

GC 37 requires effective, impartial and timely investigation of alleged unlawful use of force or other violations, accountability for those officials responsible, effective remedies for victims, and prompt, transparent reporting

¹⁵ ABC News, 'NSW Police Declare Hannah Thomas's Injury during Protest Arrest a "Critical Incident"' *ABC News* (online, 30 June 2025) <https://www.abc.net.au/news/2025-06-30/nsw-police-greens-hannah-thomas-protest-critical-incident/105478636>.

¹⁶ United Nations Human Rights Committee, *General Comment No 37: Article 21 (Right of Peaceful Assembly)*, 128th sess, UN Doc CCPR/C/GC/37 (27 July 2020) [70].

¹⁷ United Nations Human Rights Committee, *General Comment No 37: Article 21 (Right of Peaceful Assembly)*, 128th sess, UN Doc CCPR/C/GC/37 (27 July 2020) [76]-[77].

¹⁸ United Nations Human Rights Committee, *General Comment No 37: Article 21 (Right of Peaceful Assembly)*, 128th sess, UN Doc CCPR/C/GC/37 (27 July 2020) [67].

¹⁹ United Nations Human Rights Committee, *General Comment No 37: Article 21 (Right of Peaceful Assembly)*, 128th sess, UN Doc CCPR/C/GC/37 (27 July 2020) [39], [67].

of all uses of force during assemblies.²⁰ GC 37 also requires independent and transparent oversight of all bodies involved with peaceful assemblies, with timely access to effective remedies.²¹

In Ms Thomas' case, an investigation of her treatment by NSW Police, conducted by NSW Police themselves, with limited external oversight, falls short of the independence, impartiality and timeliness that GC 37 requires for accountability for the misuse of force in the context of assemblies and for effective remedy for victims.

A troubling pattern of anti-protest laws in NSW

Over the past eleven years, successive New South Wales Governments have passed nine separate anti-protest laws.²² Two notable examples legislated in the last 12 months include:

- The *Crimes Amendment (Obstructing a Railway) Act 2024* (NSW), which criminalises behaviour causing disruption to railways without 'lawful excuse', with penalties of up to two years' imprisonment or fines up to AUD \$22,000. These laws were introduced after environmental defenders temporarily stopped a coal train near the city of Newcastle in September, in protest at the national government's approval of three coal mine expansions in New South Wales.²³ However, the law's reach is much broader: it imposes the same severe penalties for obstructing not only heavy rail but also tramways. Since trams in New South Wales run on major roads through city centres, this means peaceful protests that temporarily block a tramway line, even for a short time, could result in imprisonment or heavy fines unless organisers have prior police authorisation for their protest.²⁴
- The *Crimes Amendment (Places of Worship) Act 2025* (NSW), criminalises a range of conduct near places of worship- including blocking, impeding, or hindering access- and gives police new powers to issue move-on directions to protesters in or near a place of worship. This law was introduced in direct response to a protest outside Sydney's Great Synagogue in December 2024, which targeted a political event being held at the synagogue in which an Israel Defense Forces member was speaking rather than a religious service. The New South Wales Government also pointed to the firebombing of Melbourne's Adass Israel Synagogue to bolster its case for the laws; despite the Melbourne incident occurring in a different jurisdiction and which also was a criminal attack, not a protest, and falls outside the protection of peaceful assembly.²⁵ This law carries penalties of up to AUD \$22,000, or two years' imprisonment, or both, with limited exceptions, including for assemblies authorised under the Form 1 scheme. The *Places of Worship* law is currently subject to a constitutional challenge in the NSW Supreme Court.

Australia's obligations under international law

Australia is a party to the ICCPR, which protects the rights to freedom of peaceful assembly and association.

Our country has a long and proud history of peaceful assembly as a driver of social progress- from women's suffrage to First Nations justice, racial equality, climate action and the rights of working people through a strong tradition of trade unionism.

²⁰ United Nations Human Rights Committee, *General Comment No 37: Article 21 (Right of Peaceful Assembly)*, 128th sess, UN Doc CCPR/C/GC/37 (27 July 2020) [90]-[91].

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²² David Mejia-Canales, *Protest in Peril: Our Shrinking Democracy* (Report, Human Rights Law Centre, June 2024) 18–22 <https://www.hrlc.org.au/app/uploads/2025/04/2407-Protest-in-Peril-Report.pdf>; *Crimes Amendment (Obstructing a Railway) Act 2024* (NSW); *Crimes Amendment (Places of Worship) Act 2025* (NSW).

²³ Romy Stephens and Bridget Murphy, 'NSW Government Plans to Extend Anti-Protest Laws to Include Railways and Ports after Climate Activists Disrupt Coal Train' *ABC News* (online, 12 November 2024) <https://www.abc.net.au/news/2024-11-12/plans-to-extend-anti-protest-laws-in-nsw/104589058>.

²⁴ Ethan Hamilton, 'Anti-Coal Harbour Blockade Highlights "Punitive" Approach to Protest in NSW' *Law Society Journal* (online, 21 November 2024) <https://lsj.com.au/articles/anti-coal-harbour-blockade-highlights-punitive-approach-to-protest-in-nsw/>.

²⁵ Max Maddison, 'Protest Outside Places of Worship Could Be Banned in NSW after Great Synagogue Incident' *The Sydney Morning Herald* (online, 7 December 2024) <https://www.smh.com.au/politics/nsw/protest-outside-places-of-worship-could-be-banned-in-nsw-after-great-synagogue-incident-20241207-p5kwlq.html>; Jordyn Beazley, 'Protest at Sydney Synagogue Wasn't Targeting "Religious Event" But Israel Defense Forces Speaker, Court Told', *The Guardian* (Web Page, 19 June 2025) <https://www.theguardian.com/law/2025/jun/19/palestine-action-group-tells-nsw-supreme-court-that-laws-meant-to-protect-places-of-worship-are-chilling-ntwnfb>.

However, Australia does not have a federal Human Rights Act, and New South Wales has no human rights legislation at all. Only the Australian Capital Territory and the states of Victoria and Queensland have human rights acts, leaving people in the state of New South Wales without consistent human rights protections.

Our request

We respectfully ask that you make a formal communication to the Australian Government, seeking:

1. An explanation of how the “Form 1” notification scheme in effect in New South Wales coupled with the associated police powers to issue move-on directions and disperse non-authorised assemblies is compatible with article 21 of the ICCPR, including where no Form 1 is lodged; and
2. An explanation of how the anti-protest laws enacted in New South Wales over approximately the past eleven years are compatible with article 21 of the ICCPR, and- where they are not- what steps will be taken to amend them to achieve compliance or to repeal them where amendment is not possible.

We thank you for your ongoing work in protecting this fundamental right and stand ready to assist you in any way we can.

Yours sincerely,



HUMAN RIGHTS LAW CENTRE

CC:

Ms Mary Lawlor, Special Rapporteur on human rights defenders
Ms Irene Khan, Special Rapporteur on freedom of opinion and expression