The People's Parliament in Today's International Security Environment
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ABSTRACT

In December 2016, the Prime Minister, Malcolm Turnbull, defended implementation of further security measures at Federal Parliament with the following statement:

"The parliament is the people's house, but it is important to get the balance right in terms of security measures [. . .] to provide for all of the people who work there at parliament house and of course the visitors who come to parliament house of which there are many thousands."[i]

The National Public Terrorism Alert System threat level was increased to 'probable' in September 2014. In this environment, and with the recent attacks on the UK Parliament, the murder of British MP Jo Cox, and an increase in terrorist activity both abroad and in Australia, security is a crucial and necessary concern for all Australian parliaments.

This paper explores the challenges involved in maintaining the public perception that Parliament House is still the people's house, while providing the level of necessary security to maintain the effective functioning of Parliament and protect members, staff, and visitors to Parliament.

INTRODUCTION

An ongoing challenge for all parliaments is balancing public access to the parliament with those security measures necessary to ensure the safety of members, parliamentary staff and the public. Security measures also need to enable members to conduct their duties unimpeded. The significance of this challenge for Australian parliaments increased in 2001, with the release of official advice from the Commonwealth Government raising the security threat from terrorism from low to medium, and again in 2014 when the threat was raised from medium to probable.

Security at Australian parliaments has traditionally focused on protecting members and safeguarding their ability to perform their duties in parliament without interruption; for example, by managing interruption by protesters.[ii] The laws, policies and procedures, and physical infrastructure put in place to achieve this are not necessarily enough to protect members, parliamentary staff and the public from the threat of terrorism.

Security incidents, such as interruptions to parliamentary proceedings by protesters, have the potential to play out very negatively in the media space. At the same time, heightened

security measures aimed at protecting parliaments against interruptions and the security threat posed by terrorism also have the capacity to play out negatively in this same space.

Parliaments need to find a way to implement security measures to protect not only members, but also staff and visitors to parliament, while still ensuring that the public are able to perceive the Federal Parliament and the parliament of their state as "the people's parliament".

This paper will explore how we can ensure the public still have the ability, and perceive that they have the ability, to observe parliamentary proceedings and engage with the parliament and its members, while also maintaining the heightened security measures required in today's security environment, using the Parliament of NSW as a case study.

TODAY'S INTERNATIONAL SECURITY ENVIRONMENT

The National Public Terrorism Alert System threat level was increased to 'probable' in September 2014. In the subsequent period there have been four terrorist attacks and 12 disrupted terrorist plots in Australia.[iii]

In September 2014 Islamic State issued a fatwa, or religious decree, which is a binding ruling for supporters, to attack soldiers and civilians in Australia, the US and Europe. This represented a significant shift for Islamic state, which had previously only made scattered references to undertaking attacks outside Syria and Iraq[iv]. Previously attacks by terrorist organisations like al-Qaeda required high-end resources, funding and training. Comparatively, followers of Islamic State are being encouraged to use readily available simple weapons and tactics. As these sorts of attacks require lesser planning and organising, they can be more difficult to detect or disrupt.[v]

One of the ongoing concerns for a nation like Australia is that, particularly as Islamic State loses control in the Middle East, Australians who were abroad fighting for Islamic State will return home with the skills, experience and a predisposition to violent action that pose a strong threat to the Australian community.[vi]

Recently terrorist incidents in or near Parliaments have occurred, namely the attack on Westminster in London in March 2017 and the attack on the Canadian Federal Parliament in Ottawa in October 2014. There have been a number of other security incidents in or near Australian Parliaments in recent years, including the attack on a Parliament of Victoria Protective Security Officer in December 2012; lockdown of WA Parliament due to an armed intruder in the grounds in June 2016; and the petrol bomb threat outside NSW Parliament House on Macquarie Street, Sydney, in December 2013.

Other terrorist attacks in Australia include the Lindt Cafe siege in Martin Place in December 2014, in extremely close proximity to NSW Parliament House as well as the NSW

Department of Premier and Cabinet offices, and the shooting of a civilian employee outside the NSW Police Force headquarters at Parramatta in October 2015.

MANAGING SECURITY AT AUSTRALIAN PARLIAMENTS

Historically, security at Australian parliaments has been directed toward dealing with protests, individuals seeking to interfere with the proceedings of the Houses or with individual members.[vii]

There is still difficulty in providing the balance of allowing access to the Chamber and public spaces within parliament, while ensuring that members can still carry out their duties unimpeded and that the parliament continues to operate in order to conduct business on behalf of the people that they represent.

Recent examples of disruptive incidents at Australian Parliament include the disruption to Question Time at Federal Parliament on 30 November 2016 caused by protesters gluing their hands to the public gallery railings,[viii] and on 1 December 2016 when the same group of protesters abseiled down the front of Parliament House and put red dye in the Fountain.[ix] This particular event caused mixed reactions from members. Deputy Prime Minister Barnaby Joyce criticised the actions of the protesters on the basis that they were interrupting the Parliament's proceedings, and that "it's [the people's] Parliament, and they have a right to see the people they elect do their job during Question Time." On the other side of the discussion, Greens Senator Richard Di Natale supported the protestors actions on the basis that "the Parliament is supposed to be the people's house and not a politicians' bunker . . . this building was designed so that people were able to stand above their politicians. It was designed so that politicians served at the feet of the people."[x] Another example, from Parliament of NSW, is the "sit-in" in the Fountain Court on 15 November 2016 by a group protesting against the Westconnex road project in Sydney.

CASE STUDY: PARLIAMENT OF NSW

Managing Security at Parliament of NSW

At Parliament of NSW, security is maintained under the authority of the Presiding Officers, via policies and procedures and through physical infrastructure.

Sittings of the NSW Legislative Council were not open to observers until 1838 when approval was given for the public and the press to attend.[xi] The Usher of the Black Rod and Serjeant-at-Arms have always played an important role in managing the Chambers, including visitors, and do to this day. Laws affecting the control of the Parliamentary precincts themselves do not affect "the orders of each House in relation to its own affairs

and proceedings [or] the powers of each House in relation to the control and management of so much of the Parliamentary precincts as constitute the chamber of the House concerned."[xii]

Laws, Policies and Procedures

The *Parliamentary Precincts Act 1997* (NSW) defines the Parliamentary precincts and provides for the control, management and security of those precincts and adjoining area. When the Parliamentary Precincts Bill was read out in parliament, it was the intention of the bill to "define the precincts [and] also give some guidance and authority" to the Presiding Officers on governing and directing the Chambers and Parliamentary precincts. It also sought to define the precincts in order to address security concerns caused by adjoining lands such as Hospital Road which runs behind Parliament House, the walkway between the Parliament and the State Library which has heavy public use, and the Domain, which is often used for mass public gatherings. "It is essential that Parliament ensures that the area is secure and that the police have a right of access under certain circumstances."[xiii]

Under the Act, the Parliamentary precincts are under the control and management of the Presiding Officers, and the Presiding Officers may take any action they consider necessary for the control and management of the Parliamentary precincts.[xiv]

In accordance with section 27 of the *Parliamentary Precincts Act 1997* (NSW), in 2004 the Presiding Officers entered into a Memorandum of Understanding with the Commissioner of Police, NSW Police Force regarding the exercise, by Police officers, of functions in response to incidents within the Parliamentary precincts and Parliamentary zones.

Under the Parliamentary Precincts Act, NSW Police may only act within the Parliamentary precincts by authorisation given by one or both of the Presiding Officers, or in conformity with a Memorandum of Understanding. Under this Memorandum of Understanding, in cases of utmost urgency, where there is a clear and unmistakable threat to the lives of persons within the Parliamentary precincts and only when it is considered absolutely necessary to do so, the Presiding Officers devolve so much of the control and management of the Parliamentary precincts as the senior Police officer present deems necessary in the circumstances.

Security services at Parliament of NSW are provided by a contingency of NSW Police Force Special Constables. In 2009, a Memorandum of Agreement, titled *Security services for the Parliament of NSW*, was entered into between the Presiding Officers and the Commissioner of Police, NSW Police Force. It provides for a contingent of Special Constables to provide a continuous security service in and around the Parliamentary precincts and the Parliamentary zones. Special Constables are exclusively directed by the Commissioner and specifically trained to carry out specialised security duties in high security premises within the State.

The Special Constables are authorised, as the lawful agents of the Presiding Officers, to refuse access to the Parliamentary precincts, or request a person to leave, if they: present a direct physical threat to another person; break a law under any act or regulation; act in a way that is intimidating, offensive or harassing to a Member, staff or visitors; are aggressive or abusive; conduct or have been part of a demonstration or attempt to enter Parliament with items for a demonstration and refuses to cloak them at entry; are carrying a prohibited item as detailed in the *Weapons Prohibition Act 1998* (NSW); are intoxicated or inappropriately or offensively dressed; or refuse to remove a helmet or any form of disguise. The Memorandum states that "The NSW Parliament is a public building, and constituents, when invited by the Member, are to be given appropriate access to their elected officials."

People have the right to visit members and view parliamentary proceedings, but they have to abide by certain rules, including the Standing Orders of both Houses. In addition to the Standing Orders, Parliament of NSW has a number of policies related to managing security in the Parliamentary precincts.

In most cases, these policies are a documentation of existing policies and procedures that developed organically over time. This includes the Demonstrations Policy, Animals in Parliament Policy, and the Conditions of Entry which are now displayed at the Macquarie Street and Hospital Road entrances. The demonstration policy was one of the first at Parliament of NSW where the existing process of managing security situations was documented. Policies are also reviewed and modified in order to make sure they are up to date with new technology, for example, the Security Pass Policy was updated following the introduction of new security pass technology. They are also modified to take into account changes in the security environment when necessary. Having these policies written and approved by the Presiding Officers in charge of the precincts provides clear guidelines on how security is to be managed in the precincts. There are also cases where policy needs to be developed or amended to take into account new security technology. For example, a policy was developed in 2016 to address issues around CCTV use, privacy and parliamentary privilege.

Physical Infrastructure and Procedures

Parliament of NSW, as the oldest parliament in Australia, faces a number of challenges with providing a balance between security and public access due to the age of the buildings. Parliament of NSW has occupied its present site in Macquarie St since January 1829. Parliament of NSW is comprised of the historic Rum Hospital Building, which dates back to 1811, and has been modified over the past 200 years to include the Legislative Council and Legislative Assembly Chambers, and member and corporate office accommodation.[xv]

If building a new Parliament today, good design would need to take into account arrangements to allow for good public access to the Chambers and committee rooms, and to provide access for constituents to meet members in the offices, whilst also providing

access control, screening points and facilities. For Parliament of NSW in particular, building design causes some unique challenges. Due to heritage requirements, the building cannot be easily retrospectively designed in a way that best suits public access and security requirements.

Parliament of NSW has completed a number of security upgrades in recent years based on recommendations from state and federal agencies, as well as security best practice. This includes the introduction of the Gatehouse on Macquarie Street, providing a dedicated space removed from the main buildings of Parliament House for security screening. Recently, the CCTV system has been upgraded, along with new, higher encryption security access passes, and security barriers at the main lift lobby to provide additional layers of security throughout the Parliamentary precincts.

This technology allows for the stronger enforcement of security policies and procedures that have been in place for some time, such as that all members, staff and visitors must have a security pass on their person at all times.

Public Access and Engagement

The three Departments that support the Parliament of NSW (the Department of Parliamentary Services, the Department of the Legislative Assembly and the Department of Legislative Council) outline their purpose in the Strategic Outlook for NSW Parliamentary Departments 2015-2019 which is "To enable the Parliament to fulfil its role as a representative and legislative body for the citizens of New South Wales. To this end the three parliamentary departments provide services to ensure:

1. The effective functioning of the Parliament and its committees
2. Members of Parliament are supported to fulfil their parliamentary roles
3. The community has access to Parliament and is aware of the role and functions of the Parliament."[xvi]

This third service outlined above, aligns with the goal of ensuring that the public feel that Parliament of NSW is the people's parliament. The overarching initiatives that the departments chose to achieve this goal are outlined in the plan as follows: "enhance our community engagement strategy including use of social media and emerging technologies to communicate information; continue to enhance the experience of visitors to Parliament House; enhance outreach and education services; enhance electronic access to parliamentary information; foster scholarship on the Parliament and parliamentary process."[xvii]

Through the People and Engagement Branch within the Department of Parliamentary Services, the Parliament runs a range of programs and events throughout the year for the public to engage with the workings of the parliament. These events are designed for families and adults, and can offer the opportunity to view the Chambers in session, meet with

members, and on non-sitting days, to sit in the Chambers. These include: free public guided tours of the Chambers and the historic Parkes, Wentworth and Jubilee rooms; Australia Day "open day"; Family fun days during the school holidays; participation in Sydney Open; "A Little Night Sitting" program, providing visitors with an overview of the legislature, an opportunity to view the Chambers in session and then a chance to meet a panel of members.

The Branch also runs student tours for primary and secondary schools. Primary and Secondary School Tours of the Chamber are conducted on non-sitting days and may include a role-play and a chance to meet the local Member of Parliament. On sitting days, students receive an explanation of the legislature and observe Parliament in action from the public galleries in both Chambers. A range of in-depth education seminars and workshops are offered to secondary and tertiary students throughout the year, with many involving participation from members. Parliament of NSW is currently undertaking a project to construct a purpose-built Education Centre. The Education Centre will enable the delivery of a more comprehensive education program by providing a location for role-plays, seminars and debates, which are currently only able to be delivered on non-sitting days. It is estimated the new centre will enable a 100% increase in school visitations within two years.

The Fountain Court, the main internal space connecting the two chambers, is open to the public. The Fountain Court is used to host exhibitions throughout the year commemorating the history of NSW and the Parliament of NSW, and is also used as an exhibition space by groups of artists, government bodies and departments, not-for-profit organisations and community groups.

Further, many people of NSW have the opportunity to attend privately hosted functions in the Parliament's catering spaces. Parliament of NSW recently completed a project to expand its publicly available catering and seminar spaces, refurbishing the old Members' Bar area and an existing meeting room into three new function and seminar spaces.

During opening hours, 9am-5pm Monday to Friday, visitors are free to access the Fountain Court and public cafe, and if not in use, the historic Parkes, Wentworth and Jubilee Rooms as well as the Legislative Council Chambers. To access the Legislative Assembly Chamber, they need to be escorted by Legislative Assembly Chamber staff – this can be requested at any time during opening hours, no appointment is required. During sitting, visitors are escorted to the Public Galleries by the House Chamber and Support staff.

While public access is provided, the public must abide by the conditions of entry to the Parliament, and will be asked to leave if they breach the conditions; behave in a manner that threatens the safety of any person; behave in a threatening or abusive manner; or otherwise break any laws.

Beyond Physical Access

The move into a new international security environment has coincided with an ever increasing number of opportunities to engage with the public via digital means.

In addition to the option to observe proceedings of the Legislative Council, Legislative Assembly, and Committees by attending Parliament, communications technology has provided the opportunity for the public to observe these proceedings and their records through other means.

In 1984, the NSW Legislative Council authorised the sound and video broadcasting of its proceedings within the precinct of Parliament House and to persons and organisations approved by the President, on certain terms and conditions.[xviii] Hansard transcripts from the Legislative Council, Legislative Assembly and Committees are available to view and download from the Parliament's website, and live webcasts of proceedings are also streamed on the Parliament's website. Presently, on demand video is not available but further consideration will be given to how this technology can be embraced to give the public greater access to parliamentary proceedings.

Ultimately there must always be physical access, but this provides the opportunity to engage citizens in a way that maintains that we are still the people's parliament and that parliamentary proceedings are still available to the public.

THE VALUE OF PUBLIC ACCESS

Regardless of the many ways that people can access parliamentary proceedings without even setting foot in the building itself, a parliament's buildings and their surrounds have a value as a symbol of our democracy.[xix]

While much of the Parliament's proceedings, both in the Chambers and the Committee rooms, are available via live webcast, and after the events via transcript, there are certain momentous occasions that attract a large number of visitors.

At the Parliament of Australia, one such occasion was the passing of the *Native Title Act* 1993 (Cth) on 21 December 1993. Another was on 13 February 2008, when the House expressed its sorrow over the harsh experiences suffered by indigenous Australians. On this day "the House of Representatives galleries were fully occupied [and] the Great Hall of the Parliament gave many other people the opportunity to observe the events on a large screen. Hundreds more, gathered on Federation Mall, witnessed the events in the same way".[xx]

In the Parliament of NSW there have been a number of important occasions that have drawn large numbers of visitors to Parliament to witness proceedings in the Chambers, such

as when the Legislative Council's Standing Committee on Law and Justice handed down their report *Inquiry into the Family Response to the Murders in Bowraville* on 6 November 2014.

Other momentous occasions include the formal apology to the "78ers" on 25 February 2016 for the discrimination they suffered at Sydney's first Mardi Gras in 1978. Bruce Notley Smith, the member for Coogee, moved the motion of apology in the NSW Legislative Assembly and it was unanimously passed in both houses. The *Sydney Morning Herald* reported that "about 70 of the original protesters and their supporters rose for a standing ovation as Mr Notley-Smith ended his highly charged speech, commending the tireless activism of the 78ers and acknowledging that the Sydney Gay and Lesbian Mardi Gras had as its foundation the violence and struggle of that night."[xxi] On another such occasion, 4 May 2017, Premier Gladys Berejiklian offered a "deep and sincere apology" to the victims and surviving family members of the Granville Train Disaster. The ABC reported that "approximately 50 people linked to the disaster sat in the gallery at NSW Parliament House. They bowed their heads, wiped back tears, smiled and clapped as the Premier apologised."[xxii] These examples demonstrate how important it is that the public are able to be present when something that is important to them, or with which they have a personal connection, happens within the Chambers or elsewhere at Parliament.

MANAGING PUBLIC PERCEPTION

Even within Parliament of NSW, there have been mixed reactions to security measures implemented based on official advice, with some members supportive of new measures and quick to provide feedback about security concerns. On the other hand, other members have provided feedback that they would like a more open Parliament, as well as concerns regarding the impact upon their own access to the Chambers and people accessing them.

David Elder, Clerk of the House of Representatives, Parliament of Australia, in a paper regarding Commonwealth Parliament's response to terrorism, stated that "it is essential that, despite any changes to security management, people feel that they can access their parliament building and parliamentarians and that the parliamentarians themselves feel that they have not lost touch with the community." In his paper, Elder points out the crucial role of communication in ensuring that the rationale for security measures being put in place is clear.[xxiii]

In particular, the way that these measures are reported in the media has a strong influence on how the public view new security measures, and so it is important that these measures are communicated carefully to the media and the public from the outset. In the media space, upgrades to security infrastructure can be subject to public criticism from media commentators and members alike.[xxiv] This issue was brought strongly into the public

consciousness at the end of 2016, when Federal Parliament restricted access to the grass rooftop, as part of wider security measures. At the time, the Prime Minister said "We obviously have to find the right balance between security and maintaining public access to our national parliament."[xxv]

Parliaments can be more proactive in communicating existing security policies and procedures as well as changes to security infrastructure, policies and procedures. There is also the opportunity to be clearer on our websites about entry and screening procedures and conditions of entry, so that our visitors can be better prepared for their visit.

Finally, we want to communicate that the parliament is accessible to all, and that it is a safe and secure place for the public to visit.

CONCLUSION

It is important that, despite the current international security environment, we ensure that our Parliaments remain "people's parliaments." NSW Parliament House has been open to the public since 1838, when public galleries where first built in what is now the Wentworth Room, and we aim to maintain this 179 year old tradition.

Parliaments have an important role as a symbol of our democracy, and in educating Australians about the history of democracy in our country and in our states. It is important that we do not allow security concerns to affect people's ability to access our Parliaments. There is also an undeniable obligation to provide a secure environment not only for members, but also for staff, and the visiting public.

It can be a difficult balance to strike, but there are ways of achieving this. Through the use of security best practices and technologies we can address the security threats to our Parliaments, and still ensure that our Parliaments are open to the people. We need to communicate with the public, and the members who represent them, that the Parliament is still open to those who wish to visit and observe, and that we are committed to engaging with the community.

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