Submission 2 - NSW Council for Civil Liberties

1. Removal of the NZYQ cohort to Nauru is morally bankrupt. The NZYQ cohort includes many people who have special needs in order to function in society. In many cases, the reasons they have special needs includes Australia's deprivation of their human rights through inadequate integration support and long term immigration detention. Australia has the resources to provide the necessary supports to these people. Even after paying Nauru the $400m upfront fee and $70m annual fee, Nauru will not have the necessary resources to support these individuals. Australia's relationship to Nauru becomes analogous to the relationship between Britain and the Australian colonies from 1788 to the 1850s, where the colonies were a dumping ground for convicts. Payment to third countries for this kind of settlement of criminals should be illegal under international law.

2. There is no true urgency for the legislation unless Australia intends to proceed with removals before the UN has dealt with the complaint which has been lodged: UN urges Australia to halt deportation of man to Nauru while complaint investigated. Presumably it will take some months for the UN to issue a decision. If the UN determines against Australia, then the legislation is unnecessary. There is plenty of time for a proper inquiry.

3. Part 2 of the legislation is also problematic. S12(4) is extraordinary. Effectively, s12(4) seeks to overturn numerous Court decisions without going to an appeal process. An example is Kiad v Minister for Immigration and Citizenship [2025] FCA 703. The decision is that the cancellation of the applicant's visa, which was made by Dutton in 2015 having regard to the prospect of indefinite detention, was invalid. The effect is that the Minister needs to make a fresh decision, based on a correct understanding of the law. That is not the kind of outcome which should generate a panicked response from parliament.