

Friday, 4 December 2020

Richardson Review: Law Council deeply concerned by recommendation to cut judiciary out of warrant approval

The Law Council of Australia has expressed deep concern over a key element of the Richardson Review: a recommendation that warrants to exercise intrusive intelligence collection powers should be authorised by the Minister alone and not overseen by a judge.

The Richardson Review, handed down today, is the largest review of Australia's spy laws since the early 1980s.

While giving initial approval to many of the recommendations contained in the Review, Law Council of Australia President, Pauline Wright, expressed grave concern over the proposal to exclude judicial oversight.

“This would reinforce Australia’s status as a major outlier within the Five Eyes Alliance,” Ms Wright said.

“The United States, United Kingdom, Canada, and New Zealand all have judicial authorisation requirements for their intrusive intelligence collection-powers.

“The Law Council accepts that powers that limit rights and liberties are often necessary for intelligence agencies to keep us safe and protect our national interest. But for the public to have trust and confidence in covert activities it is essential the utmost independence and rigour applies when granting authorisations. Judicial authorisation is essential to creating and maintaining that state of trust.”

Ms Wright noted the Law Council was generally supportive, in principle, of other elements of the review, including a recommendation to enact a consolidated Electronic Surveillance Act, and principles for the design of effective oversight legislation that strongly reflect independence and the need for interoperability between oversight agencies.

“Details of the implementation of these amendments to existing legislation will require close scrutiny by civil society and Parliament, and it is important that the government provides adequate opportunities for this to occur,” Ms Wright said.

“The Law Council calls on the government to now work constructively and collaboratively with the national legal profession in the development of legislation.”

ENDS

Contact: Anil Lambert, T. 0416 426 722, E. anil@hortonadvisory.com.au