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Law Council concerned government amendments to the ASIO Act are an overreach

Australia needs to maintain security laws that do not extend further than is necessary to respond to the security threats they are designed to thwart, says the Law Council of Australia.

Appearing at today's public hearing into the *Australian Security Intelligence Organisation Amendment Bill 2020*, Law Council of Australia, President Ms Pauline Wright, reiterated calls for the design of intrusive and coercive powers to remain proportionate.

"The Law Council is not denying that intelligence operatives work in a complex and dynamic security environment and need appropriate and adequate powers to keep the community safe," Ms Wright said.

"But there needs to be greater precision in defining the limits and authorisation thresholds for the proposed powers in the amendment."

"This will ensure that the use of the powers is not so dependent on executive discretion. Coercive powers such as these should have clear constraints set out in the legislation. Where there is over-reliance on Ministerial discretion, public confidence may be eroded" Ms Wright said.

Speaking before the Parliamentary Joint Committee on Intelligence and Security, the Law Council President acknowledged that the Bill includes some beneficial measures, including the removal of ASIO's power of detention, an extraordinary power that the Law Council has long opposed and which has never been exercised.

"In principle, the Law Council does not oppose the continuation of a compulsory questioning power for a fixed term of up to five years" Ms Wright said.

"But we are concerned that there are inadequate safeguards especially with respect to the proposal to lower the minimum age of questioning to 14-year-old children. And the lack of a requirement for the judicial authorisation of ASIO warrants is also disquieting."

"The Law Council remains of the view that post-charge questioning raises an unacceptably high risk of harm to the rights of an accused person to a fair trial, and the proposal to enable internal authorisation for the use of tracking devices, without the need for an externally approved warrant, raises some real concerns, with unintended consequences being likely," Ms Wright said.

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