



Law Council
OF AUSTRALIA

Office of the President

4 March 2025

Mr Jake Blight
Independent National Security Legislation Monitor
3–5 National Circuit
BARTON ACT 2600

By email: INSLM@inslm.gov.au

Dear Mr Blight

Review of the *Surveillance Legislation Amendment (Identify and Disrupt) Act 2021 (Cth)*

The Law Council of Australia appreciates the opportunity to have attended a public hearing as part of your review of the *Surveillance Legislation Amendment (Identify and Disrupt) Act 2021 (Cth)* (**SLAID Act**) on 19 February 2025.

In the course of that hearing, we were asked for our views on the suggestion that an individual who has been served with an assistance order with respect to a SLAID Act warrant ought to be able to disclose the existence of that order to obtain independent legal advice.

We note that this question relates to the following recommendation contained in the submission of Dr Brendan Walker-Munro to the review:

The ‘protected information’ and ‘protected network activity warrant information’ provisions in the Surveillance Devices Act 2004 (Cth) and Crimes Act 1914 (Cth) be amended to allow the disclosure of the existence of an assistance order by a person subject to its issue.¹

As noted in Dr Walker-Munro’s submission, legislative prohibitions on the disclosure of the existence of a data disruption warrant, account takeover warrant or network activity warrant, have the effect of preventing the subject of an assistance order from disclosing the existence of that order, as to do so may disclose the existence of the underpinning warrant.

The Law Council continues to be highly supportive of additional safeguards in the assistance order framework, noting that the broad range of matters potentially encompassed by assistance orders have the potential to impinge on an accused person’s privilege against self-incrimination, and the right to silence.

In the Law Council’s view, an individual in receipt of an assistance order should not be precluded from obtaining legal advice in light of the potentially serious repercussions of complying with that order. We therefore support Dr Walker-Munro’s recommendation and are

¹ Dr Brendan Walker-Munro, *Submission to the Independent National Security Legislation Monitor Review of Surveillance Legislation Amendment (Identify and Disrupt) Act 2021* (Submission 3), Recommendation 11.

