Media Release

Law Council
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Urgency shouldn't override due diligence where far-reaching defence Bill raises questions about civil liberties

The Law Council is concerned by the rushed scrutiny and passage of the Defence Legislation Amendment (Accelerating Capability and Protecting Bases) Bill 2026.

"All Australians have an interest in ensuring that Australia's defence legislation is fit for purpose, proportionate to the threats our nation confronts, and reflects the values of our democracy, including the rule of law. These are matters of national importance and they deserve careful consideration," Law Council of Australia President-Elect, Elizabeth Shearer said.

"Proper parliamentary processes are vitally important where national security and defence matters are involved. Substantive opportunities for scrutiny bolster democratic support for legislation, improve public understanding of changes in policy, and boost confidence in the integrity of government processes.

"An initial reading of the Bill raises concerns about the implications of the Bill, that indicate that further scrutiny is warranted before this Bill is passed by the Parliament. A public consultation period of three business days is insufficient to provide civil society with enough time to comprehensively review this Bill's 231 pages. A rushed process increases the risk of unintended consequences and poorly understood frameworks with less social licence.

"For example, the Bill establishes a framework to regulate 'defence security zones'. This includes bases and traditional military spaces, but can also be expanded to cover privately owned facilities. The implications of this characterisation require careful consideration.

"In its current form, the Bill provides limited transparency as many of the powers it seeks to confer can be expanded by declaration by the Minister, the Secretary of the Department of Defence, and the Chief of the Defence Force.

"The definition of defence security officials is broad, and the Bill seemingly could make it possible to extend the same responsibilities to non-ADF personnel, including Australian Federal Police Officers, industry partners, and members of foreign military forces.

"The Bil includes criminal offences where people fail to comply with orders issued by 'defence security officials' and 'area managers'.

"It also contains provisions for declarations of emergency and mobile defence security zones which would expand coverage often without adequate public knowledge or forewarning."

The Bill was introduced on 27 October and referred to Committee inquiry on 29 October. The only public hearing was 30 October, at which only government departments and representatives from the defence industry were present, before submissions closed on 3 November 2026.

“This allowed a mere three business days for public scrutiny – two for Victorians, considering the Melbourne Cup public holiday,” Ms Shearer said. “The speed of this process does not reflect good law making and prevents many voices being heard.

“Considering the difficult questions this Bill raises and the potential for misuse or overreach of the proposed powers, we call on the Parliament to provide more time for proper scrutiny and feedback in the Senate.”

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