



22 January 2015

Mr Tim Watling
Committee Secretary
Senate Standing Committee on Rural and Regional Affairs and Transport
PO Box 6100
Parliament House
CANBERRA ACT 2600

By email: rrat.sen@aph.gov.au

Dear Mr Watling

AIRPORT AND AVIATION SECURITY INQUIRY

Thank you for the opportunity to provide comments to the Senate Standing Committee on Rural and Regional Affairs and Transport's *Airport and Aviation Security Inquiry*.

The Law Council has restricted its comments to paragraph (c) of the terms of reference for the inquiry, namely 'whether there are further measures that ought to be taken to enhance airport security and the safety of the travelling public'.

In particular, the Law Council confines its comments to the issues of:

- performing accurate biometric identification of people entering or departing Australia; and
- allowing personal identifiers such as fingerprints or iris scans to be collected, stored and disclosed in certain circumstances.

These issues were considered in the recent Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014 (Foreign Fighters Bill).

The collection and use of biometric material in airport and aviation security has the potential to impact on a large number of individuals, including those who pose no risk to Australia's national security. The collection and use of such material also has the potential to have significant and potentially serious privacy implications, including implications for the way sensitive personal information is stored, used and destroyed.

Accordingly, the Law Council considers that the Office of the Australian Information Commissioner (OAIC), as the privacy regulator, should be consulted in the policy-development stage of any proposal to allow for the collection and use of sensitive biometric material. This is consistent with a recent recommendation by the Parliamentary Joint Committee on Intelligence and Security (PJCIS) in its Advisory Report on the Foreign Fighters Bill.¹ As noted by the PJCIS, the

¹ Parliamentary Joint Committee on Intelligence and Security, Parliament of Australia, *Advisory Report on the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014*, recommendation 36.

benefits of permitting the OAIC to conduct a privacy impact assessment include ensuring appropriate safeguards to protect personal information in any proposed legislative scheme, as well as better informing the Parliament and the public about an area with far reaching privacy implications.

Schemes for the collection and use of biometric material for airport and aviation identification purposes should be proportionate to the need for security and be subject to appropriate safeguards and oversight regimes. Legislation permitting the sharing of this biometric information between agencies for other purposes of Government should be closely considered by Parliament to limit the impact on personal privacy to the least degree necessary.

Thank you again for the opportunity to provide these observations.

Yours faithfully

MARTYN HAGAN
SECRETARY-GENERAL