

Committee Secretary
Parliamentary Joint Committee on Intelligence and Security
PO Box 6021
Parliament House
Canberra ACT 2600

14 November 2023

Dear Parliamentary Joint Committee on Intelligence and Security,

RE: Review of the Defence Amendment (Safeguarding Australia's Military Secrets) Bill 2023

Macquarie University makes this submission to the Review of the Defence Amendment (Safeguarding Australia's Military Secrets) Bill 2023 (the Bill).

We note that the Bill amends the Defence Act 1903, through the insertion of a new Part IXAA, including s115B which regulates the training that Australian citizens and permanent residents may provide to relevant foreign militaries or governments without a foreign work authorisation.

While we understand that the legislative intent of this section is primarily “to prevent individuals with knowledge of sensitive Defence information from training or working for certain foreign militaries or governments where that activity would put Australia's national security at risk” (sourced from: second reading speech), we are concerned that the scope of s115B(1) may be broad enough to be held to apply to educational services (as training can have an educational element or meaning) of an academic nature provided by university academics operating at an international level (e.g. delivering international lectures, participating in international conferences) even where the academics may have no knowledge of sensitive Defence information (the **Academic Scope**).

Macquarie University notes that a number of key terms in the legislation remain undefined including “training” and “military-related” as it applies to military tactics, military techniques and military procedures. The university sector engages in the research and teaching of dual-use research disciplines and critical technologies, much of which could be construed within the ambit of “military-related training” if these terms are interpreted broadly. Macquarie University recommends that the Bill be amended so that the scope of S115B(1) only applies to “training ~~related to~~ **concerning the** military tactics, military operations and military procedures **of the Australian Defence Force**”. This amendment would more closely align the provisions of S115B(1) with the intention of the Bill as outlined in the second reading speech, and help to avoid irrelevancies in the Academic Scope from being captured by the legislation. As currently drafted the Bill could lead to an overwhelming number of permit applications from academics planning to deliver a presentation at an overseas conference or a foreign university. It would likely further strain the resources of the Defence Export Controls Office and may lead to delays in the timely assessment of permit applications.

We request that the Bill be amended to exclude (or reduce) the Academic Scope from the operation of s115B(1).

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