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Chinese Community Council of Australia

澳華社區議會

15 February 2018

Mr Andrew Hastie MP
Chair
Parliamentary Joint Committee on Intelligence and Security
PO Box 6021
Parliament House
Canberra
ACT 2600

By email pjicis@aph.gov.au

Foreign Influence Transparency Scheme Bill 2017 and National Security Legislation Amendment Bill (No. 1) 2014

Dear Mr Hastie,

This submission is on behalf of Chinese Community Council of Australia which is a peak body representing Chinese Australians with collaborative state chapters based in main capital cities; our membership, forums and communications consist of layers of multi-generational citizens born-and-bred, to newly arrived immigrants, residents and students. We are an independent and non-profit organization.

We provide comment as follows :

Chinese Australian community dialogue

During the months of January and February, we have communicated extensively with various leaders and key members of the Chinese Australian community and certain key organizations to hear their views on what this new proposed legislation means to our community. We had meetings in Sydney and Melbourne recently.

We refer briefly to the past history of legislation that had been significant for Chinese Australians. This includes the State based Poll Tax, Residence Tax and Factories and Shops Act during the 1800's, the Federal Immigration Restriction Act (White Australia Policy) with its related discriminatory policies from 1901 to 1972's, and the Racial Discrimination Act of recent times.

Chinese numbers collapsed in Australia from 40,000 to 6,000 after the turn of the 19th Century and returned to these numbers with immigrant inflows from SE Asia in 1970's and reached 1,200,000 at the 2016 census.

We have diverse origins: China, Taiwan, HK, Singapore, Vietnam, Malaysia and Indonesia

Capital city	Population (2016 census)	% City's Population (2016)
Brisbane	99,593	4.7
Melbourne	356,324	8.5
Perth	99,229	5.5
Sydney	487,976	10.8

Australians in every respect, we are immensely proud to showcase our contributions and nation-building. We support developing of law to protect Australian sovereignty and political processes, but we are also determined to ensure that such law does not adversely affect whether intentionally or unintentionally any parts of the Australian community.

Our Community Concerns

We refer to the geopolitical scene that has had great impact for Australia and all Australians ever since China's economic rise, leadership, political reach and influence started to develop in a significant way (from early 1990's).

This has taken our Chinese Australian community into ongoing and increasing opportunities, for a greater voice and responsibilities in

- business and foreign investment
- cultural exchange
- discussion, travel and contact
- personal, and organizational capacity building

We recognize these opportunities provided benefits and contributions to all sectors of the Australian community and economy.

But some sectors will be more impacted by this proposed bill than others

- Academics who research and teach Chinese economic, cultural and foreign affairs policies
- Organizations and their principals, directors and staff who are bridging the understanding and who are adept at shedding light on the pros and cons of the interplay of Australian, Chinese and US policies
- Cultural, community and business exchange groups who publish comments and papers about the aspects of foreign relationships on social and public media

- Advocates in the legal field whose work deals closely with large and small private, government and NGO clients
- Media and any other individual or community organization that has Chinese connections and that has a level of economic, cultural and political expression

The concern is about potential suppression on “free and open discourse and political expression” which we have learnt to appreciate as a right for all Australians.

We point out that our Chinese community sector is law-biding and share with mainstream Australia all its way of life and its values.

But as we cross the bridge into a new geo political landscape, we are experiencing a swamp of “popular nationalism” and eerie echoes of “community scapegoating” by popular national media, a number of elected representatives in Parliament and mainstream community leaders who are garnishing public comment that negate and target the fabric of our community.

We are worried about the marginalizing of our long term relations that erode joint community capital and responsibilities, devaluation of long term loyalty, and revival of suspicion on our established communities where both citizens and residents are equally painted as “visible minority” regardless of extent of integration.

Comments on these Bills

We seek that the process and discussion for and against the details of these bills stay as a very careful element in fine tuning of this legislation.

The position of Chinese Australian community needs to be prime importance because China is the obvious elephant in the room for either bill.

Our community’s range of activities is broad and dynamic. It involves a great level of engagement that attracts, informs and builds community, economic and political outcomes with a number of stakeholders that are local, national and international.

We refer to the body of submissions already made by organizations representing a spectrum of interests, many making the following points that we agree with as follows.

Key problems are the balances that one would expect between protecting national interest (advocating of competitor nation policies at the expense of ours) and open civil expression (shedding light on potential reform of various existing policies). There is a large middle zone that going to be difficult to straddle.

Our community raises comments from “highly concerned” , “onerous rules”, “relationship damage”, “ intra-community tension”, “regulation of political expression” to “unclear

notions and rules”, “ a step for proper discussion”, “ where the community can support”, “international students exposure”, “hard to relate to”

The acts of registering as a “foreign agent” and revealing “foreign principal” relationships are complex because the nature and content will become a matter of interpretation. This implies a need for body of rules to guide any individual or organization. Whether the organization is deemed “foreign” is complex, especially in regard to management control, shareholder mix, place of registration, and real proximity of Australian legislative framework.

There are many Chinese Australians that fit the category of being in “activity for” and “in the service of” across the fields of academia, business and finance, foreign investment, arts and entertainment and politics. One would need a precise description of “activity” that defines such breadth, direction and degree. Particularly so, when there is a high level of continuous public and private activity on different kinds of communication platforms, including that of social media/traditional media, all under genuine circumstances.

We further agree that other submissions with PJCIS which refer to their concern about proposed delegation of powers to compel information and to charge liability for failure to register. This task becomes difficult when there are language and cultural hurdles to navigate. Particularly since significant criminal penalties are proposed.

On the NSLA Bill, we have general view along with other “media sector’ submissions that “Australia’s interests” goes beyond the country’s political and economic relations with other countries, becomes problematic when determining what criminal level under “cause harm or likely to cause harm” might arise. We raise that the aspects of widening of “secrecy of information’ has implications for investigative journalism in the Australian Chinese press who are directly under the firing zone.

The overseas Chinese with direct or indirect links to China have now become a significant and strategic investor in Australian infrastructure and industry, and are catching up to the level of other investments with USA, European and UK. We acknowledge the need to examine “critical infrastructure” and note that another submission queries how FIRB role may fit. A number of Chinese Australians are involved as facilitators of this acquisition and partnering processes which falls under the umbrella of this bill.

We note that other submissions that comment on limitations to privacy and scope of telecommunication interception may have relevance to our community.

By default, the Chinese individual and organization, as compared with others, are closest to bureaucratic risk of error under these proposed bills.

Conclusion

Chinese Australian community include many valuable and high profile groups of go-betweens across important and wide tasks of commercial, academic, media, community and national building within and outside Australia's boundaries and whilst there are many other submissions from mainstream advocates of legal services, media, academia, business / financial services and many other groups; nevertheless Chinese Australian presence is a common aspect within many of these.

At this stage, two months after the introduction of the proposed Bill over the long vacation, we (and others) still have not sufficient time to get a full Chinese Australian response from our academic, legal, media, business and finance and community sectors. We support further extension of the submission and inquiry timetable.

The Government needs to engage the Chinese Australian community and enlist appropriate help from its Chinese Australian communities. Our organization offers to be part of an ongoing Chinese Australian community review during the process of vetting this FTIS Bill.

The final scope of this legislation needs to be fully warranted and justified.

We acknowledge that a number of other submissions make recommendations that assist to guide the Inquiry. We appreciate the input from fellow community organizations and informed individuals, and government agencies; a number which appear to have depth of legal resources.

We thank you for the opportunity to make this submission.

Yours Faithfully



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Background of the writer I am a third generation Chinese Australian. I have been educated at tertiary levels in both Australia and Taiwan in engineering, law, and business administration. After working as engineer and investment banker in management and directorship levels in Canada, Asia and London, I later became the first Asian ASX member to open up a stockbroking firm in Sydney 1988. I now manage a litigation law firm The Peoples Solicitors which I started in 2006 as a joint venture with the late Hon. Jeff Shaw, former AG NSW.