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Proposed new powers over AAT on citizenship decisions risks undermining vital checks and balances

The expansion of the Immigration Minister's power to overrule independent citizenship decisions made by the AAT is a disproportionate response that weakens crucial checks and balances.

The new powers are outlined in *The Australian Citizenship Legislation Amendment (Strengthening the Requirements for Australian Citizenship and Other Measures) Bill 2017* introduced into the House of Representatives today.

Law Council of Australia President, Fiona McLeod SC, said the legislative reaction of the Government to a handful of cases is an overreach.

"It is concerning that a small sample of cases, where the full facts are not entirely known, is being used to legitimise the expansion of Ministerial power," Ms McLeod said.

"The Administrative Appeals Tribunal made some 76,000 decisions in the past two years, and around 33,000 relating to immigration.

"The Immigration Minister already has the power to appeal AAT citizenship decisions that he disagrees with. The Minister also has wide powers to cancel an individual's visa on character grounds before a citizenship application is made.

"This new legislation effectively allows the Minister to override citizenship decisions or to render his own decisions unreviewable.

"The AAT exists to provide an important check and balance on Ministerial power. This will be substantially watered-down through this legislation.

"Without checks on Ministerial power, scrutiny of Government decision making is severely curtailed. Such scrutiny is important because mistakes are made and due process not always observed.

"The Administrative Appeals Tribunal was established nearly half a century ago, because the Australian Government recognised that Ministers and their Departments could make incorrect decisions on the basis of incomplete or erroneous information.

"There has been much recent discussion on the importance of protecting Australian values. A core element of these values is surely fairness and proper checks on executive power.

"We urge Parliament to refer the Bill for a comprehensive Committee review, with sufficient time to consider the potential effects of these changes," Ms McLeod said.

The Law Council is considering all provisions of the Bill in detail and looks forward to engaging closely with the Parliamentary process.

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