



Electrical Trades Union

# ***CYBER SECURITY LEGISLATIVE PACKAGE***

February 2025

Submission to Consultation on Subordinate  
Legislation to the *Cyber Security Act* and *Security  
of Critical Infrastructure Act 2018*

14 February 2025

### *About the ETU*

The Electrical Trades Union of Australia (ETU)<sup>1</sup> is the principal union for electrical and electrotechnology tradespeople and apprentices in Australia, representing more than 67,000 workers around the country.

The ETU's membership has significant concentrations in the resources, construction and power industries, although it is spread throughout the economy including the telecommunications, manufacturing, tourism, entertainment, business equipment and defence support industries.

A typical ETU member is a highly skilled electrotechnology worker who has completed at least a four-year apprenticeship and is subject to ongoing training, certification, licensing and development requirements.

The ETU's members will be critical to resourcing Australia's energy transition. ETU members will be there every step of the way installing, operating, and maintaining the infrastructure for Australia's new energy future. It is crucial for Australia's economic and environmental survival in this second industrial revolution that we grow and develop a skilled electrical workforce by ensuring that the new energy economy is providing attractive, fulfilling, secure and safe work.

### *Acknowledgement*

In the spirit of reconciliation, the ETU acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all First Nations peoples today.

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<sup>1</sup> Being a division of the CEPU, a trade union registered under the *Fair Work (Registered Organisations) Act 2009* (Cth).

## Overview & Recommendations

The ETU welcomes the opportunity to make a submission to consultation on **Subordinate Legislation** to the *Cyber Security Act (CS Act)* and *Security of Critical Infrastructure Act 2018 (SOCI Act)*.

The ETU appreciates the intention of the Subordinate Legislation in protecting Australia's critical infrastructure and acknowledges that matters of national security are not often within the purview of trade unions. However, as has been voiced by the ETU through consultation on earlier related legislation, the draft Subordinate Legislation (particularly the draft *Security of Critical Infrastructure (Telecommunications Security and Risk Management Program) Rules 2024 (TSRMP Rules)*) has the capacity to significantly affect the lives of our members.

The ETU makes the following recommendations:

1. A review of the SOCI Act and other legislation and subordinate legislation concerning the protection of Australia's critical infrastructure be undertaken, including by assessing the costs of compliance and identifying any unintended consequences.
2. The ETU and other unions be afforded the opportunity to participate in that review.
3. The ETU and other unions be consulted in the design of future legislation and subordinate legislation concerning Australia's critical infrastructure.

## Relevant history

The ETU has previously engaged in consultation on legislation and subordinate legislation relevant to the security of critical infrastructure including (without limitation):

- a submission to the Joint Standing Committee on Intelligence and Security on the Review of the Security Legislation Amendment (Critical Infrastructure) Bill 2020;
- a submission to the Parliamentary Joint Committee on Intelligence and Security (PJCIS) inquiry into the Security Legislation Amendment (Critical Infrastructure Protection) Bill 2022; and
- a submission to the Minister for Home Affairs on the Security of Critical Infrastructure (Critical Infrastructure Risk Management Program) Rules 2022.

Such submissions raised (without limitation) the ETU's ongoing concerns regarding:

- the Department's failure to consult with the ETU and other trade unions in the design of legislation and subordinate legislation relevant to the security of critical infrastructure; and
- the failure to appropriately protect the rights of people working on critical infrastructure.

The ETU continues to hold these concerns in respect of the TSRMP Rules for the purposes of the present consultation.

### Failure to consult

The inclusion of provisions which concern the people working on critical infrastructure in the SOCI Act and the draft TRSMP Rules recognises the important role such workers play in protecting Australia's critical infrastructure. And yet, time and time again, trade unions are excluded from meaningful consultation regarding the design of legislation and subordinate legislation that affects them and their members.

By excluding trade unions from consultation in designing the TRSMP Rules, the Department has yet again missed a significant opportunity to understand the views and experiences of the workers who build, maintain and operate critical infrastructure and ensure that the Rules appropriately balance their rights.

### Existing flaws in the SOCI Act's regime

The draft TRSMP Rules expand the application of many of the SOCI Act's provisions to the telecommunications sector without addressing the SOCI Act's existing flaws (which have previously been raised by the ETU, Australian Council of Trade Unions and other stakeholders), including that:

1. too much discretion is afforded to the entities that own and operate critical infrastructure to unilaterally determine and manage risks;
2. matters of importance that should be determined by the legislature are instead able to be unilaterally determined by the Minister by way of subordinate legislation;
3. relevant workers and their representatives do not have a right to be consulted in assessing risks to critical infrastructure and developing plans to manage those risks;
4. the definitions of critical worker is too broad such that workers may unnecessarily be subjected to background checks that impinge upon their privacy and other civil liberties;
5. additional protections are required to ensure that risk management programs and background checks do not infringe workers' rights to privacy and to organise and take protected action as well as union officials' rights of entry;
6. the appropriateness of risk management plans must be capable of being challenged and reviewed; and
7. the costs of compliance with the SOCI Act and any unintended consequences of compliance with the SOCI Act be properly reviewed and considered. Of particular concern is the capacity for poor risk management program implementation to inadvertently limit or delay the major investments needed to meet the Government's commitments on emissions reductions.

The ETU would welcome an opportunity to engage in meaningful consultation to discuss its concerns regarding the existing flaws in the SOCI Act's regime so that these can be properly addressed, as opposed to replicated in respect of the telecommunications sector as is proposed by the draft TRSMP Rules.