

**Submission to the Senate Committee on Education and Employment  
into the: Building and Construction Industry (Improving Productivity)  
Bill 2013 and related bill and the Fair Work Amendment (Registered  
Organisations) Amendment Bill 2014.**

Who we are:

We are organisations committed to the protection and enhancement of our natural environment, particularly the promotion of policies that will limit and reduce greenhouse gas emissions. Our work requires an open and democratic society. As organisations that are membership based (we have over 1.5 million members between us) we are concerned by the state of public debate and democracy and so contribute this submission for the Committee's consideration of the broader context of these bills.

Our Democracy Needs to Be Strengthened, Not Undermined

The enduring success of Australia's democracy rests on many vital foundations including a free and diverse press, the rule of law, democracy in our workplaces, fair elections, active civil society and the checks and balances provided by courts and other independent public institutions. Yet, despite Australia's strong democratic history, there is a clear and disturbing trend of new laws and practices eroding many of these foundations. We see these bills as symptomatic of that trend.

The success of Australia's democracy relies on much more than the ability of adults to cast a free vote on election day. For our democracy to thrive, we need free speech, the free flow of information and a free and diverse press to hold government accountable and to inform people's voting decisions. We need to be able to organise and peacefully protest on issues that concern us without fear of consequences. We need an environment in which civil society can effectively participate and in which people feel empowered to take action. We need institutions, organisations and practices to prevent and expose misconduct and abuse of power; and which can protect people from the arbitrary or capricious power of the state. We need to ensure that government and

elected representatives act in the best interests of the Australian public instead of prioritising powerful vested interests including transnational corporations; and to ensure that the interests of vulnerable minority groups are represented in policy debates.

Attacks on the advocacy of non-governmental organisations,<sup>1</sup> on the right to protest,<sup>2</sup> on whistleblowers, and on the role for courts and due-process,<sup>3</sup> have all contributed to a situation where we feel increasingly constrained in our capacity to protect our natural environment and work to limit and reduce carbon pollution. We see clear similarities between these attacks and in the substantive proposals in these bills. Although the bills in question do not impinge on the ability of our organisations to advocate for nature or to reduce carbon pollution per se, they contribute to the creation of a normative environment in which government intervention to reduce civil and political rights is further normalised.

*The risks to democracy of these bills:*

As outlined above, we are concerned about the general state of democracy in Australia. In our view, it should be the preoccupation of the Australian Parliament to deepen and broaden democratic participation in Australia. These bills have the potential to further undermine the functioning of democracy. Specifically:

The new iteration of the Australian Building and Construction Commission (ABCC) would give the proposed commission more powers and a larger reach: including being able to coerce workers to be interviewed, question workers without a lawyer present, prosecute workers who don't cooperate, question workers about union meetings, force workers to hand over work documents and interrogate witnesses without having to reveal any details of the interviews.

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<sup>1</sup> For example, the parliamentary inquiry into the Register of Environmental Organisations in 2015.

<sup>2</sup> For example, state laws that limit the right to protest particularly at the site of mining or forestry operations.

<sup>3</sup> For example, proposals in the previous parliament to limit the standing of community groups to bring court proceedings to enforce environmental laws.

If the ABCC is exhumed, it would give its investigators more powers than the Federal Police and the Australian Security Intelligence Organisation (ASIO), but only when it comes to workplace law, it would have absolutely no criminal powers.

Under any ABCC future investigation, workers would have no rights to remain silent in interviews because the new ABCC would be able to use coercive powers that are stronger than the police to compel them to give evidence and be interviewed

Expert and Governing Body Committees of the International Labour Organisation (a United Nations Agency) has repeatedly have found that Australia's previous ABCC laws breached international labour standards, including freedom of association, the right to organise and collective bargaining.

The Registered Organisations Bill may create barriers to participation in workplace democracy for many Australians. Our organisations run on volunteers and voluntary action, we are concerned that this bill increases the compliance obligations on volunteers and voluntary groups to a level that will discourage their participation entirely, undermining an important part of our democracy and undermining our rights in the workplace.

*What the committee should do:*

We recommend that the Committee:

- Reject the Building and Construction Industry (Improving Productivity) Bill 2013 and related bill;
- Reject the Fair Work Amendment (Registered Organisations) Amendment Bill 2014;

- Investigate instead how the rights of freedom of association, peaceful assembly, and collective bargaining, can be better protected and enhanced within Australia's political system;
- Consider the Human Rights Law Centre's "[Safeguarding Democracy Report](#)" and how its findings and recommendations could be applied by the current Parliament to enhance and deepen democracy.

Organisations making this submission:



Australian Youth Climate Coalition



Edmund Rice Centre



Friends of the Earth Australia



GetUp!



Greenpeace



Solar Citizens



The Wilderness Society



350.org Australia