



THE UNIVERSITY OF
NEW SOUTH WALES



FACULTY OF LAW

GILBERT + TOBIN
CENTRE OF PUBLIC LAW

19 November 2013

Committee Secretary
Senate Standing Committee on Employment and Education
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Secretary

Inquiry into the provisions of the Building and Construction Industry (Improving Productivity) Bill 2013 and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013

Thank you for the opportunity to make this submission. We do so in our capacity as members of the Gilbert + Tobin Centre of Public Law and staff of the Faculty of Law at the University of New South Wales. We are solely responsible for its contents.

We have previously published an academic article on the Australian Building and Construction Commission established by the *Building and Construction Industry Improvement Act 2005* (Cth). The Commission was abolished by the *Fair Work (Building Industry) Act 2012* (Cth), however, the Bills currently under consideration by the Committee propose that it be re-established. Our article – published as ‘The Investigatory Powers of the Australian Building and Construction Commission’ (2008) 21 *Australian Journal of Labour Law* 244 – is attached. We expressed a range of concerns therein about the nature and scope of the powers conferred upon the Commission in its original form.

Yours sincerely,

Ms Nicola McGarrity
Lecturer

Professor George Williams AO
Foundation Director