



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