



Civil Liberties Australia – Tasmania  
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Ginna Webster  
Secretary  
Department of Justice  
via: [HaveYourSay@justice.tas.gov.au](mailto:HaveYourSay@justice.tas.gov.au)

22 September 2021

**RE: Workplaces (Protection from Protesters) Amendment Bill 2021**

Dear Secretary

Thank you for your letter of 2 September 2021 providing the opportunity to comment on this Bill.

It is our observation that the current law of unlawful entry onto land contained in section 14B of the Police Offences Act 1935 works well by providing:

- police with the power to attend protests and arrest and remove trespassing protesters;
- courts with the ability to hear and determine cases and impose penalties including, but not limited to, convictions, fines and community service orders<sup>1</sup>; and
- certainty and clarity to members of the community as to the scope and impact of the law.

As such, we believe the current law contained in 14B of the Police Offences Act is entirely adequate and not in need of reform.

Against this backdrop we are concerned that the Bill, if passed, would increase penalties for peaceful protests conducted on publicly owned land while also creating uncertainty as to the scope and reach of the law.

The combined effect of increased penalties and uncertain laws is a poor outcome for freedom of expression and participatory democracy because it risks frightening people into silence.

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<sup>1</sup> CLA is not aware of any recent terms of imprisonment being imposed. We do not see this as a failing of the current laws.

### Increased penalties

The Bill would, if passed, double maximum penalties from 25 penalty units or 6 months imprisonment for unlawful entry onto land to 50 penalty units or 12 months imprisonment for trespass on business premises.

### Uncertainty

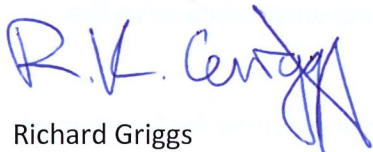
Questions and uncertainties that we believe that are raised by the Bill include:

- A. when would a trespass prevent, hinder or obstruct "to a substantial extent" the carrying out of a business activity? Would cumulative impacts of previous protesters be taken into account in determining whether a particular protester had a "substantial" impact [see definition of "obstruct" in proposed section 4]
- B. Why has the term "trespass" been used when this will rely on the common law for definition and clarification, as opposed to 14B which does not? Does use of the word "trespass" and its common law meaning expand the scope of punishable actions compared to 14B? [see proposed sections 7(1) and (2)]
- C. Does obstruction extend to non-physical interference, such as providing information to consumers that changes their purchasing behaviour? [see proposed section 9(3)]
- D. Is it possible for a body corporate to trespass? [see proposed section 6(3)]

CLA acknowledges that at several places in the Bill there is reference to rights to freedom of expression and that the law would not operate to the extent of any inconsistency with the implied constitutional right to political communication. These are welcome developments but, for the above reasons, we do believe the Bill is unnecessary and unwarranted.

Thank you for the opportunity to set out our concerns with this Bill.

Yours sincerely



Richard Griggs  
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