

Department of Justice
Office of the Secretary
GPO Box 825
Hobart, Tasmania 7001

To whom it may concern,

1/10/2021

Thank you for the opportunity to make a submission to the Workplaces (Protection from Protesters) Amendment Bill 2021

I am highly concerned that this is a politically-driven attempt to garner electoral support. This is a waste of taxpayer money, and a waste of the time of the Department, the Office of Parliamentary Counsel, and the Legislature more broadly. It is critical to note the context of this Bill. Liberal Government Ministers and Members have consistently referred to protestors as 'terrorists' under Parliamentary privilege. Outside of privilege, in a media release on this Bill, Minister Barnett has instead opted for the word "extremists".

Protestors are clearly not terrorists, they are not 'extreme', and are exercising their democratic rights. Despite multiple attempts to paint them as dangerous to workers, not a single shred of evidence has been presented that protestors now, or in the past, have caused any injury or even put individuals at risk of injury. We believe an increase in violent and threatening behaviour towards protestors is correlated with the use of this dangerous and grotesquely inappropriate language.

The amendment Bill:

- Contributes towards a concerted politically motivated campaign of hate and vilification towards peaceful protestors, which can fuel increased violence towards protestors.
- Introduces the concept of protecting workers into its rhetoric, despite no evidence ever being provided that peaceful protestors have ever caused injury or risk of injury to workers.
- Specifically applies to a select range of businesses – mining, forestry, agriculture, aquaculture, meat processing, and retail – which are disproportionately representative of Liberal Party donors.
- Clashes with existing trespass laws by creating two classes of businesses where trespassers are subject to different maximum penalties.

These proposed changes are a direct attack on tens of thousands of Tasmanians who will stand up to peacefully, but implacably defend this island's natural and cultural gems, as we have for generations.

Clause 4

This clause removes references to protestors from the long title, instead using the phrase "certain actions". However, a practical interpretation of the Act, and the media releases and public statements from the Premier and Minister Barnett, make it clear the "certain actions" being referenced are peaceful protests. What is also curious is the removal of the emphasis

on “lawful” business activities that the 2019 amendments attempted to introduce. No rationale for the removal in this draft of a reference to ‘lawful’ business activities in the long title has been provided..It is worth noting that, since the last failed legislative attempt to amend the Act in 2019, protests have occurred in relation to MMG Australia Pty Ltd continuing road works in Takayna rainforest despite being subject to an Environment Protection and Biodiversity Conservation (EPBC) Act assessment.

Clause 6, new section 3In attempting to address issues raised in Brown v Tasmania, this Bill removes references to protestors. Yet in a media release announcing this draft Bill, the words ‘protest’ or ‘protesters’ were used six times. We’re in a situation where the Gutwein Government is trying to tell the Legislature –and the High Court –that the Bill is not in fact, about protestors, while trying to tell the public and industry that the Bill is all about cracking down on peaceful protestors.

Clause 7

The proposed new section 7 establishes that if a person intentionally obstructs a business activity in the course of trespassing, they commit an offence, and can be fined up to 50 penalty units or be subject to a term of imprisonment for a term not exceeding 12 months.

The Police Offences Act 1935 already establishes an offence of unlawful entry on land(s. 14B). This offence similarly provides for a penalty of 50 penalty units or a term of imprisonment not exceeding 12 months, if the offence is in relation to a “dwelling-house”. The penalty is 25 penalty units or a term of imprisonment not exceeding 6 months in other cases. This is important context in relation to the proposed new offence. The clear intent of the Police Offences Act 1935 is that trespass on a residential property should be treated as a more egregious offence than trespass on commercial premises.

This Bill is at odds with this principle—and in fact enables trespass on a business premises in relation to forestry, or aquaculture, to attract a higher penalty than trespass on the premises of a business in another sector, for example advanced manufacturing. In short, the amendments would give greater protection from trespass for select businesses favoured by the Liberals. Section 14B(2A) of the Police Offences Act 1935 allows for penalties for unlawful entry on land to be doubled if the person is in possession of a firearm.

In effect, this means if this Bill passed, a person who trespasses on an advanced manufacturing facility armed with a loaded firearm would potentially be subject to the same maximum penalty for this offence as a person who trespasses on a forestry coupe ‘armed’ with a placard. This proposed new section also establishes aggravating provisions if the commission of the offence causes “directly, or indirectly, a serious risk to the safety of the person or another person”. As discussed earlier in this submission, this is the only element of the Bill that purports to relate to worker safety. If this Bill is truly concerned with worker safety (despite not stating so in the Objects) it is curious that a limited range of businesses are covered.

If the Gutwein government is sincere about reducing protest activity, they should do it by properly regulating industries and protecting the environment, not bulldozing over freedom of speech.

Yours Sincerely,

Isabelle Gurney