



Tabled by  
Hon. V. Goodwin MLC  
24/3/15

24/3/15  
9/14  
Petition No: 1&2 of 2014

## RESPONSE TO PETITION

Hon Rob Valentine

**TITLE OF PETITION:** Workplace Protection from Protestors Bill 2014

The petition of the undersigned Tasmanian Residents

**Citizens of Tasmania draw attention to the House:**

That the Workplace (Protection from Protestors) Bill 2014:

1. harshly punishes free speech and peaceful assembly on public streets and other public places
2. may contravene the implied right to political communication in the Australian Constitution
3. proposes the creation of mandatory minimum prison sentences, which do not currently exist in Tasmania, diminishing the separation of powers and the important checks and balances provided by independent courts
4. will lead to unjust outcomes in individual cases because the court is prevented from tailoring the sentence to meet the facts of the particular case
5. duplicates existing laws, including trespass and public nuisance, which manage to govern protest activity in a way that raises none of the above concerns
6. was drafted in the absence of any formal public consultation process with the legal profession and other expert or interested groups.

And your petitioners request that the Legislative Council vote against the Bill.

**That the Legislative Council vote against the Bill**

### GOVERNMENT'S POSITION

The *Workplaces (Protection from Protesters) Act 2014* was passed by both Houses of Parliament in 2014 and commenced on 24 December 2014. It was the subject of rigorous debate and amendment.

The Government recognises that protest activity is a legitimate form of expression of views and opinions and does not support the unreasonable fettering of free speech or rights of assembly. The *Workplaces (Protection from Protesters) Act 2014* does not remove the right to protest but ensures that right is exercised responsibly and lawfully so that others rights are not negatively impacted.

Many concerns expressed in the petition and public debate have been addressed in the amendments passed by both Houses of the Tasmanian Parliament. These include:

- a reduction in the types of business premises to which the Act applies;
- limiting the scope of coverage of the Act to access or public areas outside defined business premises;

- introducing mirror summary offences to be heard and determined by a lower court instead of the Tasmania Supreme Court at the discretion of a prosecutor;
- including a requirement that the police must issue a direction to move on before enforcement action may be taken under these laws i.e. the issuing of an infringement notice, arrest or charge;
- removing mandatory penalties; and
- removing the mandatory recording of criminal convictions.

The main purpose and intent of the *Workplaces (Protection from Protesters) Act 2014* is to protect business, it is not about preventing legal and responsible protest activity.

This Government is committed to protecting jobs and investment from radical protests. The *Workplaces (Protection from Protesters) Act* is a response to a real threat to the Tasmanian economy.

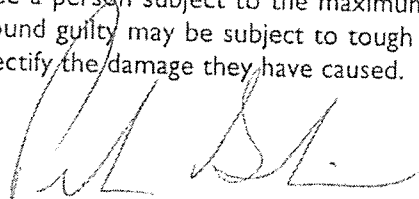
Some extreme protest activity in our community affirmed the view that other laws were not equipped to deal with this behaviour or did not send a strong message of deterrence or denunciation of the behaviours. Offences encapsulated in the Police Offences Act, the Criminal Code and the Work Health and Safety laws were not designed to protect workplaces from the extreme and illegal interferences with operations that have accompanied some protest actions.

The law was developed as a key election commitment to support the business community where protests have unduly hindered and obstructed the rights of workers and business owners to conduct their work without significant disruption.

The Act balances the right to protest with the right of business owners to conduct their business without interference. It sends a message to protestors that action that prevents, hinders or obstructs the carrying out of a business activity on certain premises where the protestor knows or ought reasonably be expected to know that his or her activity is likely to prevent, hinder or obstruct business activity, is against the law.

There are additional safeguards in the law that ensure that a protestor must be initially given a direction to desist from their behaviour before this law applies.

The Act provides a strong framework for dealing with unacceptable actions arising out of extreme protest activity. If protestors choose not to move on they may be dealt with through on the spot fines or prosecution in either the Magistrates or Supreme Court depending on the level of behaviour. Repeat further protesting may see a person subject to the maximum penalty or a term of imprisonment. Persons found guilty may be subject to tough financial penalties and compensation orders to rectify the damage they have caused.



Hon Peter Gutwein MP

**TREASURER**

Date: .../.../2015

20 MAR 2015