

# Dissenting Report from the Australian Greens

1.1 The Senate Inquiry into the Migration and Maritime Powers Amendment Bill (No 1) 2015 (Bill) received seven submissions from lawyers and experts in migration. All submissions raised serious concerns regarding this Bill, with the exception of the submission made on behalf of the Government by the Department of Immigration and Border Protection.

1.2 Despite the evidence provided and concerns raised by these experts, the Chair's report has recommended that this Bill be passed.

1.3 The Australian Greens are concerned that the Bill seeks to significantly expand the scope upon which the Minister may cancel a visa on character grounds, including the automatic cancellation of visas on certain grounds and additional Ministerial power to set aside decisions by the Administrative Appeals Tribunal.

1.4 The Australian Greens are also concerned that the Bill compounds provisions passed by the Government last year whereby a child or mentally ill person who was not responsible or did not understand that they could not make repeat applications for a protection visa.<sup>1</sup>

1.5 The Australian Greens are further concerned that Schedule 4 of the Bill includes provisions in breach of international law and undermines Australia's relationship with other states, by purporting to authorise the turn back of boats into another country's territorial waters.<sup>2</sup>

1.6 In response to the Bill's Explanatory Memorandum's statement that the intention behind section 40 of the *Maritime Powers Act 2013* (the Act) is to ensure that powers exercised under the Act are done so in a manner consistent with the principle of territorial sovereignty at international law,<sup>3</sup> the Australian Greens note the submission of the Andrew & Renata Kaldor Centre of International Refugee Law, which states;

The fact that a relevant maritime officer or the Minister mistakenly considers that the exercise of powers is consistent with the Convention cannot render the exercise of powers lawful as a matter of international law.<sup>4</sup>

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<sup>1</sup> For further discussion see UNICEF, *Submission 2*.

<sup>2</sup> For further discussion, see the Andrew & Renata Kaldor Centre for International Refugee Law, *Submission 1*.

<sup>3</sup> Explanatory Memorandum, p. 37.

<sup>4</sup> The Andrew & Renata Kaldor Centre for International Refugee Law, *Submission 1*, p. 2.

**Conclusion**

1.7 The Australian Greens are concerned that the Chair does not appear to have appropriately responded to and addressed the concerns raised in the vast majority of experts regarding this Bill. The Australian Greens recommend that the Bill be rejected by the Senate.

**Recommendation 1**

**1.8 The Australian Greens recommend that the Bill be rejected by the Senate.**

**Senator Sarah Hanson-Young  
Australian Greens**