

AUSTRALIAN GREENS DISSENTING REPORT

Introduction

1.1 This program is an ill-conceived response to the enormous environmental damage our community faces and does not adequately address the most important environmental challenge of our time - climate change.

1.2 It is very unlikely to deliver genuine, lasting environmental outcomes and it fails to support young people in finding meaningful work. It is very likely to entrench young people in unemployment and poverty, while diverting energy and resources away from more effective environmental programs.

1.3 It devalues the work of those who have trained for and pursued careers in environmental protection and, due to the voluntary nature of the individual training component, offers no genuine pathways into ongoing employment for those who participate in the program.

1.4 For those who participate, there is no guarantee that it will be any more effective or less degrading than the previous incarnations of this program, such as the Green Corp and Work for the Dole.

1.5 On the weight of the evidence supplied to the committee, the Australian Greens do not believe that this Bill should be passed.

1.6 This dissenting report will outline some of our key reasons why this Bill should not be passed and this remains our overarching position, however this report will also take the opportunity to provide some recommendations that could lessen, but not completely offset, the negative impacts of this program if it were to proceed.

The lack of accredited training pathways

1.7 While improving on previous incarnations of this program by introducing flexible accredited training options, this program still fails to provide appropriate training and support to applicants.

1.8 In the Green Army Programme, accredited training is an optional extra to be negotiated with each individual rather than a core feature of the program. This has the potential to be flexible and responsive to the individual needs of the program participant, however, the National Union of Students submission notes that:

We are concerned that young people looking for work will be in an unequal bargaining position when trying to negotiate training outcomes with providers.¹

1.9 For young people who are disengaged from learning and the workforce, it is unlikely that they will know in advance of starting the program what sort of training might lead to a positive personal outcome. Beyond a minimum level of initial on-the-job training, the training component is actually optional, and there is no reason given as to why participants are likely to opt-in to additional activity requirements.

1.10 This is coupled with the fact that there is no incentive within the program funding for program coordinators to introduce another level of complexity to their program by encouraging participants to develop a genuinely tailored training plan or deliver specific training programs. The program selection criteria only asks organisations who are submitting an application to identify suitable training programs ‘where possible’ rather than requiring that accredited training programs be integrated into the program design.

1.11 The Australian Greens agree with the National Union of Students that beyond the initial project safety and cultural awareness training, accredited training with a registered provider should be a core element of the Green Army Programme and not an optional extra.

1.12 Furthermore, in order to offer genuine training opportunities which lead to long-term outcomes there should be a built in periodic review of individual Participation Agreements that provide an opportunity for participants to seek additional training as their experience and skills develop.

Recommendation 1

1.13 That beyond the initial WHS and cultural awareness training, accredited training with a registered provider is implemented as a core element of the Green Army Programme rather than an optional extra, and that service providers and team supervisors are contractually obligated to ensure that participants are fully informed of their training options.

Recommendation 2

1.14 That participant program plans include a built in periodic review of individual Participation Agreements and that all training options are presented to the participant as part of this review.

1 National Union of Students, *Submission 3*, p.4.

The denial of workers conditions and insurance

1.15 The Australian Greens are also extremely concerned that participants in the Green Army Programme will not have access to an appropriate number of hours or the basic employment protections that other trainees are entitled to.

1.16 Suspending access to income support payments is extremely problematic if the programs do not at least meet the income provided through a social security payment.

1.17 Because there is no minimum guarantee of hours, it is possible for individuals under the program to be worse off than if they were on Youth Allowance.

1.18 The Australia Institute submission points out that:

The program plans to pay people for up to 30 hours a week for up to 26 weeks but we do not know if the hours are to be regular nor how they are to be agreed between the ‘employer’ and participant. It would be a cruel outcome if participants were motivated to join but found they were earning less than they had been on Newstart because the hours were not there. Likewise someone who is sick or has other sudden family caring responsibilities may suffer a drop in income. It is not clear that there are leave arrangements that would be available to ordinary workers.²

1.19 In effect participants are engaged in casual work and should either be guaranteed a minimum number of hours, and appropriate sick and carer leave provisions under the Bill, or should be able to retain access to income support payments, with the income obtained through the program being treated as it would be from any other source – i.e. effectively reducing the income support payable.

Recommendation 3

1.20 That the Green Army Programme either be considered as ordinary income and participants remain eligible for income support OR there is a mandated minimum number of hours per week that ensures that the amount received by the participant is not less than the amount they would have received under Youth Allowance. If the age limit of the scheme is expanded, this guarantee of income should be pegged to the amount received under Newstart for those eligible for the Newstart payment.

1.21 The Bill removes Commonwealth protections for Green Army Programme participants. Participants in the Green Army Programme are not regarded as employees or trainees. Participants will not be entitled to the protection of workplace health and safety laws and workers compensation laws, superannuation, leave, job protection, anti-discrimination protection or fair dismissal procedures.

1.22 While this is consistent with earlier programs such as Green Corps – as outlined by the Department of Employment Annex attached to the Department of Environment Submission – there is no good reason why this Bill should continue this practise.

² The Australia Institute, *Submission 1*, p. 2.

1.23 Continuing this practise of denying participants the status of trainees suggests that for all the rhetoric about ‘having highest regard for Participant safety, wellbeing and personal need and development’ along with providing ‘opportunities to undertake training recognised under the Australian Qualifications Framework’³, this program is not a genuine training program and will continue many of the disempowering and exploitative practises of those earlier programs.

1.24 Given that many programme participants are likely to be highly vulnerable, with some having just left school, they should be afforded the strongest possible workplace protections.

1.25 When a program participant is not considered an employee, the practical effect is that:

Even where insurance is in place, it differs from workers compensation cover in that an injured participant is likely to have to demonstrate negligence by the provider. These disputes can take many years and great expense to resolve, and young volunteers are highly unlikely to have the resources to singlehandedly pursue such claims however meritorious they may be. As such, compared to workers generally, a lower standard of protection is being offered to Green Army participants, particularly given the physical and outdoor nature of the tasks they are doing.⁴

1.26 The Law Council expands on the consequence of denying Green Army Programme participants adequate legal protections:

The Green Army Programme Guidelines do provide that Project Sponsors and their subcontractors must comply with the provisions of all relevant work health and safety laws, provide a safe working environment, and develop project specific work health and safety plans...However there is a significant difference between a contractual obligation to ensure safety (which might, if breached, mean that a service provider has their contract terminated) and the sanctions of criminal law that come with being bound by workplace health and safety legislation.⁵

1.27 The Australian Greens agree with the Law Council, that formal legal protections, rather than contractual ones, are the appropriate way to ensure that those who are engaged in the scheme are properly protected from injury at work. Delegating this responsibility to the service provider clearly does not provide adequate protection and the law society demonstrates the main consequence of this as being that:

A contractual obligation to the Commonwealth to protect workers from injury does not provide the workers themselves with any compensation or redress if they are injured at work... The provision of insurance cover will mitigate the risk to some extent, but it is not clear why voluntary workers

3 Department of the Environment, *Green Army Project Guidelines Round 1*, 2014. Available at: <http://www.environment.gov.au/system/files/resources/66ba56e8-e7f7-4de4-8163-edbdfa73f26f/files/green-army-project-guidelines2.pdf> (accessed 11 May 2014).

4 National Union of Students, *Submission 3*, p. 3.

5 Law Council of Australia, *Submission 2*, p. 6.

should be disadvantaged relative to other trainee employees in relation to workplace health and safety and income protection.⁶

1.28 The submission by the Law Council goes on to recognise that these participants are also not covered by the Commonwealth Volunteers Protection Act 2003 (Cth) as participants will be receiving Commonwealth remuneration for their activities.⁷ This means that the normal protections against workplace discrimination are also weakened by this Bill.

1.29 Under previous schemes participants were covered by state and territory employment laws, but this will no longer be the case. Since most states and territories referred their industrial relations powers to the Commonwealth in 2010, the Fair Work Act 2009 and the National Employment Standards contained in it have been the framework for a national workplace relations system which includes all private sector employment, other than employment by non-constitutional corporations in Western Australia.

1.30 Workers who are injured at work should be able to receive compensation for that injury. Workers who are harassed, bullied or discriminated against should be able to turn to the relevant Commonwealth Ombudsman. The structure of this Bill does not offer these guarantees.

1.31 The Australian Greens will not support any ‘workforce’ program where the workers are not legally workers and have no workplace rights.

Recommendation 4

1.32 That the failure to provide adequate legal protections be addressed in the Bill.

The absence of administration funding

1.33 The Australian Greens recognise that providing ongoing training and support, and designing and implementing programs that will lead to genuine outcomes, requires administration funding for both the Sponsor and Service Provider organisations. Yet, the project guidelines do not demonstrate that this funding will be provided for.

1.34 A lack of administrative funding will prevent organisation from delivering quality programs that have genuine environmental and social benefits.

6 Law Council of Australia, *Submission 2*, p. 6.

7 Law Council of Australia, *Submission 2*, p. 5.

Recommendation 5

1.35 That administrative funding be included in the program funding to sponsor organisations, and where appropriate, service providers.

The failure to address work readiness

1.36 Even if the concerns about training, program design and workers legal conditions can be resolved, the Australian Greens are unconvinced by the statements made by the Department of Environment to this inquiry that this program will lead to work-readiness or genuine environmental outcomes.

1.37 The Department of Environment submission asserts that this program will ensure that job seekers will be more competitive in the labour market:

Green Army offers a structured programme of practical work experience combined with accredited training—it is therefore likely to be an attractive alternative to Job Services Australia for many young job seekers. Should the job seeker return to Job Services Australia, they will have a new qualification and recent practical project experience, allowing them to be more competitive in the labour market.⁸

1.38 Yet the Department has elsewhere acknowledged that the skills obtained by the participants through the program are unlikely to lead to employment in the environmental area. This is best demonstrated in the information provided by the Department about the project guidelines.

1.39 The concerns of those organisations that participated in the Department's consultation process were acknowledged and summarised by the Department as follows:

There is likely to be a lack of employment opportunities for Participants, upon completion of their Green Army placement, due to the low availability of jobs in the NRM industry. They may also need longer to acquire the relevant skills and experience to be competitive in this industry. It was also suggested that these qualifications can be obtained relatively easily outside the programme and that Certificates I and II are not normally competitive in seeking work (Cert III is often a minimum requirement).⁹

1.40 And the direct response from the Department was not to address these concerns but rather to acknowledge that:

The primary focus of the Programme is the delivery of environmental and heritage conservation projects. The Programme is not a job placement initiative. Training will be provided to assist Participants to obtain a Certificate I or II qualification but will also provide nationally endorsed

8 Department of the Environment, *Submission 4*, p. 9.

9 Department of the Environment, *Thematic Issues Raised by Submissions on Draft Green Army Programme Statement of Requirements*, 2014, p.1. Available at: <http://www.environment.gov.au/system/files/pages/46eb6bb3-ba0f-43c3-85a3-3da68d32f7b7/files/summary-sor.pdf> (accessed 11 May 2014).

skill sets to assist Participants' readiness to move into study and employment.¹⁰ (Emphasis added)

1.41 Participants are likely to have been attracted to the program, in part, because they will not have to satisfy mutual obligations requirement to look for work.

1.42 If accepted into the programme, it is proposed that the job seeker would generally be suspended from income support, and therefore their obligations under social security law would no longer apply. Instead, the Green Army Participant would move onto Green Army Allowance (which is commensurate with a training allowance, and higher than Newstart Allowance or Youth Allowance. In addition, the job seeker would no longer be required to report to, or work with, their Job Services Australia (JSA) provider, although may choose to do so.¹¹

1.43 The result of this is that job seekers are no longer actively looking for permanent work or connected to their job service agency.

1.44 A training program should lead to clear employment prospects but given that accredited training is not necessarily a part of the program, there is no guarantee that participants will build their skill level to that required for further employment. As discussed in the section on training, there is no guarantee that this program will boosted their skills enough for them to be considered job ready. See our comments and earlier recommendations on training.

1.45 Given this program does not guarantee an employment outcome, it should at least ensure ongoing links with a job service provider who is obligated to provide trainees with ongoing advice and support and quickly transition participants into other training or employment opportunities at the end of the program. While the program guidelines state that participants can volunteer to remain in contact with their JSA, the policy settings are such that job service providers are not incentivised to maintain these links.

Recommendation 6

1.46 That the interaction between participation in this program and access to ongoing support from a job service agency be clarified and strengthened.

Recommendation 7

1.47 That there is a clear exit pathway from this program back to a job service agency and access to stream 2 or higher levels of support that ensure participants are quick transitioned to employment or study.

10 Department of the Environment, *Thematic Issues Raised by Submissions on Draft Green Army Programme Statement of Requirements*, 2014, p.1. Available at: <http://www.environment.gov.au/system/files/pages/46eb6bb3-ba0f-43c3-85a3-3da68d32f7b7/files/summary-sor.pdf> (accessed 11 May 2014).

11 Department of the Environment, *Submission 4*, p. 9.

The failure to invest appropriately in environmental protection

1.48 Even if the recommendations above were implemented, the readiness to move into study or employment is not particularly useful if there are neither jobs nor transition pathways available to the program participants.

1.49 The reality is that this Government is putting more pressure on environmental funding and is likely to reduce rather than increase the number of employment opportunities available to young people in natural resource management. The dismantling of the Biodiversity fund, which would have injected millions of dollars of program funding into NRM is a prime example of this.

1.50 Previous programs that directed unskilled workers to undertake environmental protection work have been largely unsuccessful in delivering significant and lasting environmental outcomes.

1.51 For example, Murdoch University Professor of Sustainability Glenn Albrecht is reported as having said:

If it's really just weeding and tree planting, similar to the sorts of things that were done under the Howard government's programs, a lot of that work, particularly in periods of savage drought, was simply undone because there was no long-term follow up.¹²

1.52 These programs could offset this by providing a genuine entry into environmental management for young people, and provide a new generation of skilled workers who can deliver the environmental services that Australia desperately needs if we intend to undo the damage that has been done by poor land management policies in the past.

1.53 In considering the role that the Green Army will play in the provision of environmental services, The Australia Institute cautions that:

Special care needs to be taken to ensure that program sponsors are not merely substituting activities they would normally undertake with an ordinary workforce with Green Army Social Security Legislation Amendment (Green Army Programme) Bill 2014 workers on cheap casual wages with fewer on-costs. It should not be a program for providing and alternative cheap workforce for rural and regional employers.¹³

1.54 The Green Army Programme may increase the number of people working on the landscape but, by its very nature, as a training program it cannot replace the work of skilled environmental workers. Yet, if Landcare and Natural Resource Management funding is cut further, there will not be enough funding to continue the environmental strategies that this program is meant to supplement.

12 G Moore, 'Abbott's recycled Green Army policy', Newmatilda.com, 13 August 2013. Available at: <https://newmatilda.com/2013/08/13/abbotts-recycled-green-army-policy> (accessed 11 May 2014).

13 The Australia Institute, *Submission 1*, p. 3.

1.55 The Australian Greens are concerned that this program will be used in exactly that way, to replace rather than expand our pool of environmental workers and will further undermine the quality of Australia's conservation workforce by taking away well-paid, well-protected jobs and replacing them with low-paid, unsafe jobs.

Recommendation 8

1.56 That this Government invest in environmental services and expand rather than cut current programs such as Caring for Our Country, Landcare and the Biodiversity Fund.

Conclusion

1.57 It is nothing short of exploitative to direct tens of thousands of unskilled young people into short term projects which will not lead to permanent employment simply to cover up the fact that this Government is not prepared to take genuine action on environmental issues. This is particularly disturbing given that this Government is also cutting back on both higher education funding and the supports that are available to help young people enter the workforce on a permanent basis.

Recommendation 9

1.58 That this Bill not be passed, until such time as participation in environmental training programs is backed up by long term ongoing funding in natural environment and heritage projects that would generate employment pathways for those who complete appropriate training programs that have been designed in partnership with the environment and job services sectors.

Senator Lee Rhiannon
Australian Greens

Senator Rachel Siewert
Australian Greens