



**The Hon Niall Blair MLC**  
Minister for Primary Industries  
Minister for Regional Water  
Minister for Trade and Industry

B19/32

Mr David Blunt  
Clerk of the Parliaments and Clerk of the Legislative Council  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Mr Blunt

*David*

I am pleased to submit the NSW Government response to the report of the Legislative Council Select Committee Inquiry into Landowner Protection from Unauthorised Filming or Surveillance.

The NSW Government supports or supports in principle all of the recommendations of the report and is working to progress the recommendations. Please find enclosed the NSW Government's response.

If you require any further information on this matter, please contact Tara Black, Director Strategy & Policy, Department of Primary Industries on 0429 843 713.

Yours sincerely

**The Hon Niall Blair MLC**  
Minister for Primary Industries  
Minister for Regional Water  
Minister for Trade and Industry

20 JAN 2019

Encl

*Received at 4:10 pm on  
Wednesday 20 February 2019  
on behalf of the Clerk of  
the Parliaments.*

*Straffell  
A/Deputy Clerk*

## Government Response - Parliamentary Inquiry into Landowner Protection from Unauthorised Filming or Surveillance

Recommendation	NSW Government Response
<p><b>Recommendation 1</b></p> <p>That the NSW Government review the resources and powers of the RSPCA in regard to the monitoring and enforcement of animal welfare measures, and consider means by which the RSPCA and the NSW Police can work together more effectively to protect animals from mistreatment.</p>	<p><b>Supported in principle.</b></p> <p>The NSW Government is committed to safeguarding animal welfare and providing the strongest possible regulatory framework to promote responsible animal ownership and care in NSW.</p> <p>The NSW Animal Welfare Action Plan (the Plan) was released in May 2018 and outlines the Government's plans to modernise legislation that is almost 40 years old to deliver an animal welfare system that is focused on outcomes and reflects evolving animal welfare science and community expectations. The Plan includes action to improve the effectiveness of compliance and enforcement efforts.</p> <p>In June 2018, the NSW Government released a discussion paper seeking community feedback on whether current penalties for animal cruelty offences are appropriate and proposed amendments that aim to protect animal welfare during critical and emerging incidents. The Government is currently working through the community's feedback on these issues before making any changes to animal welfare legislation.</p> <p>Memorandums of Understanding (MOU) are in place between the Department of Primary Industries (DPI) and RSPCA NSW, and DPI and the Animal Welfare League (AWL) NSW.</p> <p>The NSW Police Force also has a strong co-operative relationship with the RSPCA NSW. Opportunities to strengthen this cooperation are being explored and both agencies are currently investigating ways of further improving animal welfare outcomes through better information sharing.</p>
<p><b>Recommendation 2</b></p> <p>That the NSW Government encourage animal industries to be proactive in engaging with the community, and collaborate with animal industries to investigate schemes to increase transparency about food production and animal husbandry practices.</p>	<p><b>Supported in principle.</b></p> <p>The NSW Government is supportive of industry initiatives to improve the transparency of animal industries and supports proactive engagement by animal industries with the community.</p> <p>The NSW Government recognises that some farmers are using advancements in technology, such as live streaming video footage, to increase transparency and to demonstrate their high animal welfare standards to the community.</p> <p>Industry should continue to lead initiatives to increase transparency about food production and animal husbandry practices.</p>
<p><b>Recommendation 3</b></p> <p>That the NSW Government review the <i>Surveillance Devices Act 2007</i> to consider</p>	<p><b>Supported in principle.</b></p> <p>The NSW Government will establish a working group to consider whether inserting a public interest exemption for unauthorised filming or surveillance into the <i>Surveillance Devices Act 2007</i> is warranted.</p>

<p>whether to insert a public interest exemption for unauthorised filming or surveillance.</p>	<p>Under existing NSW animal welfare legislation, any suspected animal welfare offences should be notified to the NSW Police, RSPCA NSW or the AWL NSW. Authorised inspectors from these organisations have the power to enter land to undertake inspections.</p> <p>It is noted that the <i>Report of the Statutory Review of the Surveillance Devices Act 2007</i> by the NSW Department of Justice was tabled in the NSW Parliament on 16 October 2018. The report did not consider a public interest exemption for unauthorised filming or surveillance.</p>
<p><b>Recommendation 4</b></p> <p>That the NSW Government establish a whole of government working group to review the current legislative framework around unauthorised filming and surveillance and identify barriers to enforcement and successful prosecutions.</p>	<p><b>Supported in principle.</b></p> <p>The NSW Government will establish a working group to consider whether there are any barriers to effective enforcement and prosecution of offences relating to unauthorised filming.</p>
<p><b>Recommendation 5</b></p> <p>That the NSW Government review the laws and penalties of trespass and unauthorised surveillance to consider the responsibility of those planning illegal activities and whether the offences of trespass and unauthorised surveillance should be extended to office bearers of organisations planning and financing these illegal activities.</p>	<p><b>Supported in principle.</b></p> <p>The NSW Government will establish a working group to consider the adequacy of penalties for offences relating to unauthorised entry onto inclosed lands and unauthorised filming, and the concept of accessory liability in the context of offences relating to unauthorised entry onto inclosed lands and unauthorised filming.</p> <p>It is noted that in June 2016 the NSW Government introduced a new offence of aggravated unlawful entry on inclosed land. The new offence increased the maximum penalty where a trespasser interferes with the conduct of a business or undertaking, or causes a serious risk to the safety of a person, from \$550 to \$5,500. In November 2017, the new aggravated offence was further expanded to circumstances including where a trespasser introduces or increases a risk of a biosecurity impact.</p>
<p><b>Recommendation 6</b></p> <p>That the NSW Government, through the Council of Australian Governments, raise the need for comprehensive approach to the regulation of drones across state and federal jurisdictions, with particular regard to the potential privacy and security impacts of the increasing use of drone technology.</p>	<p><b>Supported.</b></p> <p>The NSW Government agrees that it is desirable for jurisdictions to take a consistent approach to regulating the use of drones to manage the associated privacy and security risks without unnecessarily impeding legitimate uses, noting this issue was discussed at the Council of Australian Governments meeting in December 2018.</p>