

Thank you for the opportunity to lodge a submission to the NSW Legislative Council Portfolio Committee No. 4 – Industry, in response to the Inquiry into the Provisions of the Right to Farm (RTF) Bill 2019.

I strongly oppose the RTF Bill 2019 and the flawed underlying premises of the Bill. I also have valid concerns about the Provisions for the RTF Bill for the following reasons:

The limited one-week submission period severely restricts important stakeholders and the NSW public at large, as it does not allow sufficient time to consider, compile and lodge a comprehensive submission. Further, the explanatory material supporting the Bill provides minimal information.

Participants included in the Inquiry's scheduled hearing on 3 October are selective and invariably will have vested interests. Feedback will accordingly be limited to participants from 'key organisations in the sector, representatives of the agricultural industry and animal welfare advocates'. This selective feedback will not ensure adequate representation of all stakeholders and will fail to determine whether the provisions of the Bill are 'adequate' in meeting all stakeholder's needs.

I oppose the proposed RTF Bill and any legislation or regulations that seek to bypass important community consultation and participation and objection in the established planning system. The Bill generally and unfairly elevates and prioritises the status of particular commercial ventures above other lawful land uses. This imbalance has the potential to cause increased negativity and conflict, particularly in close-knit rural communities. A RTF law will not diminish conflict of land use or nuisance issues. Rather, it will prohibit objective investigation of the real causes of such conflict, and hinder the process of reaching amicable and acceptable resolutions. This Bill also has the potential to significantly limit the property rights of one party against another where the aggrieved or affected party may suffer a disadvantage, reduced amenity, valid environmental or health concerns, or a loss in property value; whilst the producer can continue to profit from their activities with minimal regard to the nuisance caused by their activities.

The Bill similarly has the potential to discourage best practice and continuous improvement in the agricultural industry. If producers or operators are immune from meeting certain standards and their actions cannot be challenged, this reduces any incentive to improve with potentially negative consequences to the aggrieved party, including matters directly related to animal welfare or environmental damage. As has been demonstrated, RTF laws can and often do alienate the very communities in which the 'farms' or commercial ventures operate. Where valid and well-founded concerns around the environment, social (including human health), amenity and animal welfare risks and impacts resulting from animal agriculture developments, and other commercial ventures operate, producers and

operators are unfairly granted immunity from claims of nuisance.

The planning system is best placed to both set the parameters for sustainable commercial developments, and resolve issues that do arise due to conflict of land use or other complaints. The planning system aims to ensure that land use and development is appropriate, coordinated and sustainable. This is generally achieved through long term strategic planning, with local and regional contexts catered for in more detailed local and regional planning policies. The agricultural industry, like all other industries and the public, can participate in this strategic planning process with their local, state and territory authorities. A blanket RTF law, however, overrides this broad strategic and consultative approach in favour of some industries or a government economic and political agenda, without proper assessment processes or adequate justification based on an evidenced economic, environmental or social basis.

Community opposition to animal agriculture developments and other commercial operations which impact the environment and the welfare of animals is growing, particularly with respect to the development of large-scale and intensive animal production systems. It is therefore vital that interested and potentially affected third parties are consulted and their views are given full consideration. Reducing the rights of third parties to voice concern or object to development applications will further erode public confidence in the planning system. These third-party rights can also safeguard the proper application of planning laws, and allow for the thorough consideration of all development and operational risks and impacts. This is particularly important where local authorities lack the funds, resources, expertise or willingness to thoroughly assess planning proposals that present public concern. The integrity of our planning processes must be upheld and the increasing level of public concern about such commercial ventures should not be discounted, sidelined or bypassed by any RTF legislation.

This Bill appears to be a further attempt by the government to hinder and prevent transparency in the agriculture sector, notably animal agriculture, through additional 'ag-gag' style legislation which is designed to hinder, prevent and punish those who seek the accurate documenting and reporting of systemic and often legal animal abuse and environmental vandalism.

Industry representatives already have a disproportionate influence over the setting of agriculture practices and animal welfare standards, often resulting in the establishment of weak animal welfare standards that not only continually fail to protect animals in line with community expectations, but in fact reinforce existing industry husbandry practices based on economic and increased production targets.

At both federal and state level, the regulation and governance of animal protection have been delegated to government departments where a real or perceived conflict of interest already exists. The public has lost faith in these departments to legitimately and objectively respond in the best interests of animals. This conflict is also evident with the reluctance of some authorities to adequately monitor and enforce compliance with animal protection and environmental laws.

Existing state, territory and federal laws already capture trespass and property damage on agricultural land. We don't need to increase penalties and introduce new offences in

relation to trespass under the Inclosed Lands Protection Act 1901. Nor should any Bill prevent an action for the tort of nuisance being brought in relation to a commercial agricultural either lawful or unlawful, on agricultural land. The proposed offences will arbitrarily criminalise or prevent the lawful exercise of the rights of NSW citizens who are aggrieved. The Bill actually requires “a court to consider alternative orders to remedy a commercial agriculture activity that is found to constitute a nuisance rather than order the activity to cease.” Improved transparency in commercial industries would be far more effective in dealing with potential trespass and property damage.

No “Right to Farm” legislation should enable the Right to Harm animals, the environment or people. Nor should such legislation enable the divisive division between rural communities, or be the weaponry used to justify and deliver a government’s economic and political agenda for the benefit of a minority against the wishes and expectations of the majority – the NSW public.