

**Submission  
No 18**

**INQUIRY INTO LANDOWNER PROTECTION FROM  
UNAUTHORISED FILMING OR SURVEILLANCE**

**Organisation:** Cordina Chicken Farms Pty Ltd

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## Submission to Legislative Council Select Committee on Inquiry into landowner protection from unauthorised filming or surveillance

1. **Whilst the terms of reference are confined to Unauthorised filming and surveillance, of equal importance, we believe the Committee inquiry be expanded to also cover the trespass of facilities. In this regard, we submit the following comments for the Committee's consideration.**
  - The unauthorised filming and surveillance of chicken production and processing facilities appears to have increased in recent years. Our plant operations at Girraween have been picketed and a contract grower farm in the last month was subject to several instances of illegal trespass and filming, later published on Facebook. In this filming both the company and the RSPCA were disparaged and it is almost certain not all the filming was sourced from this farm. The objective was clearly to create reputational damage to the farmer, company and the RSPCA.
  - Trespass onto facilities (particularly farms) for the purpose of undertaking such surveillance has the **potential** to cause significant damage to both property and our chickens in a range of ways:
    - Biosecurity breaches – our industry spends millions of dollars on biosecurity measures in an effort to keep both endemic and exotic diseases out of our flocks. Illegal trespass for the purpose of collecting covert footage of activities puts all of this good work at risk.
      - Groups that undertake these activities often claim that they are taking appropriate biosecurity precautions, but we challenge this and believe it is 'window-dressing'. Do they really understand the risks and principles of biosecurity relevant to the chicken industry?
      - For example, do they adhere strictly to all the requirements of the industry's biosecurity manual, which includes such things as a complete change into freshly laundered new clothing / footwear or use of new full protective clothing and footwear prior to visitor entry to a farm? Do they enter the sheds using a disinfectant footbath? Do they have poultry or other birds at home (prohibited for staff by our biosecurity rules and for which mandatory stand down periods apply for visitors). Or do they just come along from their homes (possibly with chickens roaming in the backyard) and film themselves pulling on some boots and coveralls that they may have used during a trespass on another farm down the road (or in their own backyard coup)?
    - Unusual activity / sudden and unusual lighting – such as when entries are made by people in the middle of the night, particularly when they use flashlights to illuminate the birds – very often result in panics and pack-ups. We don't have specific data or a documented example to demonstrate that this has happened in the past, but, anecdotally, we have heard of cases where farmers have discovered unauthorised cameras installed in their shed(s) which has clearly been in place for some time unbeknown to them (or seen footage somewhere that clearly has been collected quite some time previously) which potentially could have been linked to otherwise unexplained mortalities in their flocks, but because they were unaware at the time that there had been a trespass, no link could have been made or could have been expected at the time.
    - Potential risk of physical damage to the facilities.
      - Chickens sheds have feed and drinker lines running down them. These are easily damaged, particularly by people bumping into them in the dark (or

birds damaging them during a panic in response to an unexpected shed entry).

- Not only is the physical damage to this equipment and the cost of repair an issue, but damage to water lines in particular can result in sheds (or parts thereof) flooding, and irreparable damage being done to the quality of the litter for the remaining duration of the batch – a situation which has enormous consequences for animal welfare.
  - There have been circumstances where the covert installation of surveillance devices has created some risks re the electrical circuitry in the shed, with consequent risks of fire (a risk to both staff and birds) and power supply to the sheds (a risk primarily to the welfare of birds through a potential loss of power).
- Trespass onto facilities – processing plants. Picketing of the company’s processing plant has caused interference to our livestock deliveries and created unnecessary security costs and risks with protestors attempting to slow down vehicles entering our premises. Semi-trailer drivers operating in night time conditions should not be put in a position that parties could be injured by such activities. Turi Foods in Victoria actually had their premises illegally invaded by protesters under false pretences, causing operations to be halted for several hours. The costs of such actions should be rightly borne by the perpetrators of such activity.
  - Distress for farmers subject targeted by such activities. It is extremely distressing **for anyone** to find that your privacy and property has been violated. This is the case for chicken farmers as much as anyone else in society. In the instance of the recent break-in on our company farm, once the family was notified of the breach, they broke down emotionally, not only because someone had violated their privacy and misrepresented their farming operation, but also because they saw it as a threat to their livelihood.
  - There are also significant reputational risks associated with these activities. These may be at the individual farmer or company level, but is also significant for the industry as a whole.
    - The sole aim of many cases of covert surveillance is precisely to discredit the farmer or industry and to cause the industry reputational harm, often with the specific objective of convincing consumers to stop eating chicken (or using other animal products).
    - Footage collected is often selectively used, cut and edited to create a ‘story’ that appears to show overt animal cruelty, where there was no such thing. For example, images of dead or dying birds are often reused or repeated to present an overwhelming picture of death and destruction, or footage from other farms (or from long ago) is cut into the footage to present a depiction that is not reflective of the farm it infers that it depicts. In the case of the above Facebook footage, we are certain that much of the footage has been taken on other farms but solely attributed to our single farm location.
      - Two more examples of this are (a) the 7.30 Report in November 2017 (reused in the recent documentary “Dominion”, which recycled one segment of footage to suggest that multiple birds were entering the scald tank alive (as suggested by wing flapping at the point of entry), whereas it is not even clear that the single bird pictured was alive at this point; (b) the 7 News story in June 2017 using footage collected on a farm supplying to Mt Barker in WA, which clearly only found a very few dead birds to capture images of, despite having had ample opportunity through having collected footage over a number of visits.

- In saying all the above, Cordina (in fact the industry generally) doesn't condone animal cruelty. The reason we instruct the locking of our farms is not to 'hide' anything; it's to protect our flocks from illegal entry and potential biosecurity hazards.

## 2. Comments specific to the Terms of Reference to the enquiry <https://www.parliament.nsw.gov.au/lcdocs/submissions/60983/0005%20APL.pdf>

*(a) the nature of protection for landholders from unauthorised filming or surveillance, including but not limited to installation, use and maintenance of optical surveillance devices without consent under the Surveillance Devices Act 2007*

On the surface, the provisions of the Surveillance Devices Act 2007 appear to be sufficient, including in terms of penalties for unauthorised filming, however existing mechanisms are clearly insufficient to prevent trespasses for the purposes of collecting unauthorised surveillance materials. The evidence for this is that in many cases the participants openly flout the laws by allowing themselves to be captured in the images collected and subsequently published. There is also a question as to whether the Act covers all forms of Surveillance technology eg. drones? The Act should be reviewed to ensure all the latest technologies are properly covered.

There are also some issues that need to be addressed in terms of the usage of footage and images that are obtained through illegal activity such as a farm trespass, as this material may subsequently be used in a range of ways to unfairly damage the reputation of farmers or the industry more broadly.

- There should be a mechanism that requires illegally obtained footage to be 'owned' by the person on whose property the footage was collected, and therefore for such footage to be returned to them.
- We also believe that, in the case of footage obtained illegally of animals which are the property of a third party, the laws should require that the footage should also be immediately turned over to appropriate authority and to the owner of those animals. In the poultry industries, where much of the care of the chickens is in the hands of contractors (contract growers and pick-up crews), the party with the greatest capacity to effect change and provide meaningful penalties is the company that actually owns the birds. Companies are in the position to take immediate action, and such action can be used as a deterrent to others. A good example of this was the Inghams Tahmoor turkey processing plant incident of several years back, where footage of mistreatment of turkeys in the live bird handling section of the plant was aired in the media. In this instance, the company immediately initiated an investigation which resulted in the immediate dismissal of several workers on the unloading and shackling floor, the supervisor of the floor and plant manager. It is also worth mentioning that this incident led the industry more broadly to adopt CCT surveillance in all major processing plants (in the live bird area) as a deterrent.
- Illegally obtained images and footage are often hosted on overseas websites and social media pages, making it difficult for them to be forced to comply with orders to pull these down. Mechanisms to prevent this, and force removal of illegally obtained materials from such websites, should be investigated.

*(b) the extent and appropriateness of penalties for unauthorised filming or surveillance, including but not limited to on-the-spot fines and/or relevant penalties under the Summary Offences Act 1988*

Section 8 of the Surveillance Devices Act 2007 imposes a five-year imprisonment for a breach of that section which in theory may be a sufficient penalty for these actions.

So why do people continue to do it? Perhaps the problem is the rigour which such crimes on farms are prosecuted compared to crimes committed against homes and businesses in urban areas. The

Committee should consider why this is the case and possible solutions. In this regard, there should be some focus on what evidence is required to achieve successful prosecution?

(c) the implications with regard to self-incrimination of the request of disclosure by a person of any recordings made by that person,

We support the principle that a person who suspects they have witnessed a crime, namely animal cruelty, should immediately provide their evidence to authorities so that any alleged crime can be investigated. However, we also the principle that those who seek to expose legitimate instances of cruelty should be exempted from self-incrimination. Individuals who act in good faith in an attempt to expose criminal activity should be protected under the legislation, as distinct from individuals who are simply on a 'fishing expedition' and break the law just for the purpose of disrupting the business activities of law abiding businesses, or in the 'hope' that they can capture some images that they may be able to manipulate in some way to wrongly incriminate law abiding businesses.

(d) the implications of rapidly changing media environment, including social media platforms such as Facebook Live,

It should not be possible to 'publish' images or footage collected by illegal means on any publicly accessible (social or conventional media) platform, without the permission of the property owner who is the victim of such illegal activity. Maybe there should be a mechanism introduced that gives the person whose property images collected illegally to "own" the images/footage, requiring those images or footage to be surrounded back to the property owner?

(e) any other related matter

The Committee should look at ways to protect producers from false and misleading claims arising from the use of illegally obtained images and footage. As mentioned previously, the way that footage is presented in many cases deliberately misrepresents either the practices of business from which the material was actually obtained and/or the industry more broadly, and there should be some penalties which apply to organisations (not just individuals) which promote, organise the perpetration of, and publicise both this illegal activity and the misleading representation of material sourced as a result of it. Perhaps removal of the charitable status of such organisations should be a penalty option in such circumstances.

In summary, we wish to make it clear we don't want to prevent the exposure of actual cruelty; indeed we welcome being made aware of it because it is within our power to do something about it. However the rights of those parties under illegal filming, surveillance or trespass must be protected. We do not want businesses put at risk by people who are intent on misrepresenting facts purely for the purpose of damaging reputations, whether it be of families, companies, the industry and in the above example even the RSPCA. It must be recognised that there are animal welfare groups who have a blanket opposition to intensive farming or even animal production and will go to any lengths to discredit legitimate operations.

Cordina Chicken Farms Pty Limited