

Submission
No 206

INQUIRY INTO PROVISIONS OF THE RIGHT TO FARM BILL 2019

Organisation: National Farmers' Federation

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Portfolio Committee No. 4 – Industry
NSW Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

Via email: portfoliocommittee4@parliament.nsw.gov.au

To whom it may concern,

Re: Inquiry into the Provisions of the Right to Farm Bill 2019

The National Farmers' Federation (NFF) welcomes the opportunity to provide a submission to the NSW Legislative Council Portfolio Committee No. 4 – Industry's inquiry into the Provisions of the Right to Farm Bill 2019.

The NFF was established in 1979 as the national peak body representing farmers and more broadly, agriculture across Australia. The NFF's membership comprises all of Australia's major agricultural commodities across the breadth and length of the supply chain. Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations form the NFF.

Australia's farmers make a valuable contribution to the economy and to society at large, and face significant challenges in operating their businesses. These challenges, such as extreme weather, commodity price fluctuations and pest and disease incursions, are often outside of the direct control of farmers. Farmers should not have to also contend with illegal behaviour by trespassers who seek to disrupt their businesses, and in doing so put at risk the welfare of those farmers, their families and workers and their livestock. Unfortunately, there appears to be a rise in anti-farming rhetoric and coordinated anti-farming activism, including distressing incidents of farm trespass as well as property damage and theft. Clearly the existing legal framework and its application is not providing an adequate deterrent for such activities.

The NFF has repeatedly called for governments to review, strengthen and harmonise trespass laws and procedures for enforcement. It has been highly encouraging to see several state governments, and the Commonwealth, recently moving to introduce new offences and increased penalties for trespass and related behaviour, including penalties that recognise the biosecurity risk created by unauthorised access to farms. There must be real consequences for these actions, to reflect the seriousness of the crime and provide a genuine deterrent. The Right to Farm Bill 2019, which extends and increases the penalties for aggravated trespass

and creates a new offence for inciting such behaviour, is an important development for the safety of Australian farms and farmers.

While trespass is already a criminal action under NSW legislation, the reforms proposed by this Bill more accurately encompass the particularity of farm trespass, and enhance the penalties in line with community expectations. The introduction of an imprisonment term sends a strong message about the seriousness of aggravated trespass offences and the detrimental impacts it can have on farm businesses, and brings NSW in line with other jurisdictions. These provisions will give the court access to a greater range of penalties, which will improve the ability to impose sentences appropriate to the crime. The penalty regime proposed in the Bill will provide flexibility so that the range of offending within the crime of aggravated trespass can be recognised. This flexibility is critical to ensure the penalties for specific actions are proportionate to the illegal action.

It is important to note that this Bill is about preventing and penalising illegal activity, and not about preventing transparency. Farmers recognise the need for transparency in the way they operate, and the importance of ensuring that on-farm practices meet community expectations, particularly around important issues such as animal welfare. While the NFF strongly supports measures that will help protect farmers from the threat and consequences of rural crime, we have consistently stressed that those measures should not have unintended consequences, including restricting or penalising those who lawfully disclose animal cruelty, mistreatment or other criminal activity. The NFF and its member organisations are committed to continuing to build the public's understanding of agricultural production, and to better understanding and responding to community attitudes to agriculture.

With regards to the nuisance shield, we understand that the measures in the Bill provide a defence for agricultural producers against common law nuisance actions, and protection from being subject to some injunction orders based on nuisance findings. These measures support the right of farmers to conduct lawful business activities without the burden of complaints from neighbours and other third parties. This is an important first step towards a legislative framework that will provide certainty for agricultural production in areas where land use is subject to conflicting demands.

For comments on the specific provisions of the Bill, the NFF refers to the submission put forward NSW Farmers' Association. The NSW Farmers' Association is an NFF member, and we offer our full support for their submission.

Thank you again for the opportunity to comment on the Right to Farm Bill 2019. Should you require any further information in relation to this submission, please contact Adrienne Ryan, NFF General Manager Rural Affairs, on

Yours sincerely,

TONY MAHAR
Chief Executive Officer