

Submission
No 279

**INQUIRY INTO PROVISIONS OF THE RIGHT TO FARM
BILL 2019**

Name: Name suppressed

Date Received: 1 October 2019

Partially
Confidential

1st October 2019

To: NSW Parliament

Submission from an individual regarding the 'Right To Farm Bill 2019'

I would like to make this submission for consideration regarding the 'Right To Farm Bill'

I have provided my contact information through the submission form online. I am happy for you to publish my submission should you wish to. However I ask that my name, address, phone number, email address and all other identifying details such as mentioned be excluded from publication.

I am an average Australian and not an expert on any of the topics or points I mention, however I have researched what I can to the best of my ability with in the short time frame provided. I apologise if any of my technical terminology or items I mention in regards laws is not quite correct, but I will do my best and this is my understanding of what I have researched.

I will list my concerns regarding the proposed Bill in numbered point form to make each section easier to identify. They may not be in the chronological order the items appear in the proposed Bill.

1) Schedule 2[4] OF THE Bill amends the Inclosed Lands Protection Act of 1901

My research has shown me that the 'Inclosed Lands/Prescribed Premises' Definitions are quite broad and could be quite frankly, descriptive of nearly anywhere. The full description I have located is below.

Inclosed lands means: (a) prescribed premises, or (b) any land, either public or private, inclosed or surrounded by any fence, wall or other erection, or partly by a fence, wall or other erection and partly by a canal or by some natural feature such as a river or cliff by which its boundaries may be known or recognised, including the whole or part of any building or structure and any land occupied or used in connection with the whole or part of any building or structure.

Prescribed premises: means land occupied or used in connection with any of the following: (a) a government school or a registered non-government school within the meaning of the Education Reform Act 1990, (b) a child care service, (c) a hospital, (d) a nursing home within the meaning of the Public Health Act 1991, and any building or structure erected on that land, but does not include all or part of any building or structure that is for the time being occupied Page 3 Inclosed Lands Protection Act 1901 No 33 Section 4 Historical version for 1.3.2010 to 8.12.2011 (generated on 21.12.2011 at 11:28) or used for a purpose unconnected with the conduct of such a school, child care service, hospital or nursing home. Road means any land proclaimed, dedicated, resumed or otherwise provided as a public thoroughfare or way or any land defined, reserved or left as a road in any subdivision of lands. (2) Where a road is lawfully inclosed with the lands of any person, those lands, but not the road, shall be deemed for the purposes of this Act to be the inclosed lands of the person.

For reasons I am unsure of, the available Explanatory Note for the Proposed 'Right To Farm Bill 2019' did not list the description I found in the Act in it's entirety (that I have shown above). It showed an

abbreviated description of the definition of 'Inclosed Lands' that was much shorter than all the actual wording in the 'Inclosed Lands Protection Act 1901'.

While I am concerned with the general level of the broad description of what constitutes Inclosed Lands. I am extremely concerned about the terms describing surrounded fully or partly, by an 'other erection' or 'by some natural feature'. These terms are so vague it is difficult to imagine any place that does not include one of these items partially surrounding it. I can not find any definition of these items and how they are interrupted in the 'Inclosed Lands Act 1901' or the proposed 'Right to Farm Bill 2019'. The description could mean a public park with a group of trees at the front. Or for that matter an open space with some signs 'erected' partially surrounding the front.

I feel it is of the utmost importance to get the foundation of the Act that the Bill is based on to be much more precise instead of it's vague terminology, before we potentially start issuing 3 year gaol terms and \$22,000 fines.

The new proposed 'Right To Farm Bill 2019' may have the intention of targeting those protesting on farm land, however the act that this Bill is based upon clearly covers nearly everywhere and the new Bill will cover anyone protesting. In Australia we have prided ourselves on the civil rights we have and the right to protest is one of them.

If this Bill is passed in it's current format it will include every person who tries to protest anywhere on public or private land about anything. Suddenly any protestor is a potential criminal.

2) The Proposed Amendments to the Inclosed Lands Protection Act 1901 (Schedule 2)

I am also concerned about some of the terminology used in the proposed amendments. I have detailed below;

- Section 4B Aggravated unlawful entry on inclosed lands Insert "or hinders" after "interferes with" in section 4B(1)(a)
- Section 4B(1)(a) Insert "or hinder" after "interfere with"

I also find the request to insert the word 'hinder/s' a strange an unnecessary vague description to be added. Surely the current terminology 'interfere/s' covers any potential offences. People understand what the term 'interfere' means.

The definition of hinder according the Cambridge Dictionary is; to limit the ability of someone to do something, or to limit the development of something

Adding this term appears to be adding words for the sake of intentional vagueness.

Context to the section/s it refers to of the 'Inclosed Lands Protection Act 1901' is below;

4B Aggravated unlawful entry on inclosed lands

- (1) A person is guilty of an offence under this section if the person commits an offence under section 4 in relation to inclosed lands on which any business or undertaking is conducted and, while on those lands:
 - (a) interferes with, or attempts or intends to interfere with, the conduct of the business or undertaking
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If the word 'hinder' is added and we are to assume that this new Bill will in fact cover protests and in it's current form; it will include all protestors of any kind, the following will be factual. Any protest that makes a noise while otherwise being peaceful could 'hinder' the business or undertaking. Example; The current definition of 'Inclosed Lands' includes Government Buildings/premises (as well as many other broad locations). A Union Protest or Stop Work Strike Protest outside of a government building, even Parliament, may 'hinder' the people in the office from clearing hearing phone calls that are related to work. This would be hindering the business or undertaking. This would classify the peaceful protestors to all be able to be charged with the maximum penalty of 3 years in prison and a \$22,000 fine (if there are 3 or more of them).

It is also important to mention, that while it is not listed in the Explanatory Note regarding the 'Right To Farm Bill 2019' *The Legislation Review Digest NO. 5/57 – 24th September 2019* includes the mention of something else that would constitute 'Aggravated unlawful entry on inclosed lands'.

On page 5 section 11 it states within other items on a list that aggravating factors include; 'introducing or increasing the risk of biosecurity impact'.

Anyone who has read or seen any form of news in the last 12 months relating to this issue would know that farmers have spoken openly that they consider any entry by anyone onto their farm who does not live or work there (ie; protestors) as a biosecurity issue. Whether that is in fact the truth or not, how does anyone prove that they are not a 'biosecurity' hazard. The mail man doesn't live on the farm. If he/she delivers a package to the front door she/he is creating a potential 'biosecurity' issue according to the definition by farmers. Including this potential 'Biosecurity Impact' as part of the Bill would mean that potentially anyone can have the charges on them raised to 'Aggravated unlawful entry' just because they walked on the property. Unless perhaps someone is going to swab everyone and test for potential viruses and pathogens at the time, how does someone mount a defence against this claim? Let's hope no one takes a set against the postie who drops off their eBay package or the girl from the neighbouring town selling fundraising cookies who knocks on the door.

As to the new increase in penalties for these offences. Is it really comparative to potentially fine an individual who is protesting with 2 friends against animal cruelty \$22,000 maximum penalty and given them a 3 year prison sentence, when in NSW the 'Prevention of Cruelty to Animals Act' has a maximum fine of \$22,000 and 5 years in prison for the most severe offences?

If the Government truly wants to stop protestors entering farms, we need to have an independent charity whose only concern is Animal Cruelty in the agriculture industry, monitoring cruelty on farms with the power to enforce laws. Yes the RSPCA does a great job within their restrictions. However their main focus has changed since they were created and now involves more caring for and rehoming unwanted domestic animals such as cats and dogs. While this is very noble and I applaud them for this, it really does make it difficult for them to be the voice for farm animals as well.

Despite being over worked and time poor to begin with it, it must be even more difficult in country farming towns for them. In these towns everyone knows each other and they are fundraising for their shelters. How can they monitor farming to a true capacity when hypothetically they could be asked to go to a farm up the road where Farmer Bob lives. His kids go to school with their kids and his wife was a big help at the local fundraising sausage sizzle. It puts them in a bad position.

Under Section 34B of the 'Prevention of Cruelty to Animals Act 1979' The Minister can appoint an 'approved charitable organisation' to carry out inspections and enforce the laws. I think it's time we had an exclusive farm animal protection charity appointed. In my opinion this will work better than any proposed Bills to deter trespass and protests. Farmers who are doing the right thing would surely welcome this. Concerned citizens could contact this charity with farm animal concerns instead of resorting to contacting animal activists groups when nothing seems to be happening to stop cruelty they have witnessed.

Section 4C Insert after section 4B— 4C

Direct, incite, counsel, procure or induce aggravated unlawful entry

A person must not direct, incite, counsel, procure or induce the commission of an offence against section 4B.

I again find this explanation very confusing. What constitutes the definitions of these terms used?

In the context of the Bill's original intention relating to farms, Social Media is used by every average Australian to share information about things that we care about. Many of us care about animals. Does sharing publicly available content on Social Media now make all potential Australians criminals if the item we shared lists a farm location on it? Often there is video footage collected by whistle-blowers that is shared naming the place the footage was taken. If this is the location of a farm and it is mentioned does this by definition mean that the average person is 'inciting' or 'inducing' others to protest at that farm by simply sharing it? People do get angry when they see animal cruelty. Protests happen when people see injustice. If we are going to start charging average Australians for sharing public available footage that may list the location it was taken, there goes freedom of speech for Australians.

If we consider the above proposed section in a different perspective relating to the 'Inclosed Land' current definition, the repercussions of this are much more alarming. This would mean that anyone who shares the details of a potential protest or sit in, be it conducted by a Union or some other organisation are probably guilty of all of the above. People could be charged without even attending a legitimate protest.

The most alarming thing in relation the above section was not in the Explanatory Note regarding the 'Right to Farm Bill 2019'. It was written in the 'Legislative Review Digest No. 5/57 – 24 September 2019' on page 6 section 13 referring to Schedule 2 [5] it clearly states the following ;

“The Committee notes that the creation of new offences impacts upon the rights and liberties of persons as previously lawful conduct becomes unlawful.”

Please actually consider what this is saying. It says that the government is about to pass a Bill that will become law *knowing* that it will impact the rights and liberties of all Australian Citizens and make it illegal for us to have the civil rights we currently have. Since this Bill is designed with farmers' rights in mind, it says that farmers are more important citizens in Australia than anyone else. How is this not discrimination? Our Australian Government is prepared to pass a Bill that they acknowledge will discriminate against some of it's own citizens.

While it might be counterproductive to quote Greta Thunberg and say 'How dare you?' I will say something a bit more Aussie.

'Fair Go Mate, this is un Australian!'

Kind Regards

A concerned citizen